J. 1187, we would find that so far as the law as it stands in Travancore today is concerned, it is not possible to effect any disposition of property in favour of an unborn child. Both of my friends referred to the fact that it would be desirable if the whole of the Transfer Property Act was made law here and that a more comprehensive legislation may be attempted at that stage. Well, to my mind, that cannot be an objection to the introduction of a piece of Legislation which is not as comprehensive as perhaps it might be.

PRESIDENT: Order, Order. A few portions of the Transfer of Property Act have been enacted here such as the sale and partition.

MR. C. S. LEKSHMANA IYER: They have been. That is why I say that though comprehensive legislation may be desirable that is no reason why legislation in regard to a particular subject should not be had at the present moment.

I move that the Bill be referred to a select committee.

MR. N. RAMAKRISHNA PILLAI: This may be referred to a joint committee with members from the sister House.

PRESIDENT: An honourable member of the sister Chamber has introduced a similar legislation. If a joint committee of the two Houses were constituted for the purpose of this Bill, it would conduce to convenience. I would therefore ask Mr. C. S. Lekshmana Iyer to consider that.

MR. C. S. LEKSHMANA IYER: I move that a joint committee under Rule 5 (1) be constituted.

The motion was put to vote and carried.

THE TRAVANCORE NAYAR ACT (AMENDMENT) BILL.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, the economic consequences of the operation of the law of partition in Nayar Tharwads have for a long time engaged the attention of the community and also of the Government. On account of the sudden and widespread disruption of tharwads and the consequent sub-division of holdings, the need for suitable measures to arrest this increasing process of disintegration has become insistent. This question has been the subject of discussion in several important Nayar Conferences one of which was presided over by our Dewan Sachivottama Sir C. P. Ramaswami Aiyar. In his presidential address he pointed out the serious and irreparable injuries that might result from the rapid and increasing sub-divisions of properties into small and uneconomic holdings and advised the community to resort to early measures to prevent this. He was also kind enough to assure that Government would view any such attempt with sympathy and consideration. When the question of the prevention of fragmentation of holdings came up for discussion before this Assembly on the 31st July 1942 the Dewan-President observed as follows:

> "I shall speak community by community. I shall first take the nayar community. What it has done in Travancore and Cochin is to make itself ineffective as an economic factor in the State. There are many ways of dealing with the legitimate desire of a son or daughter to a share of the father's or mother's estate. It is possible to keep the estate intact and to divide the

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income. It is possible to devise a system like the Dayabhaga system of Bengal where, without actual partition, each member of the family is supposed to have a theoretical share and is entitled, as the owner of a particular share of the income. It is possible to get rid of the difficulties and drawbacks of the system by setting the Karanavan as the trustee of a family. If this is done by the Nayar community, I am sure, it will be effective against fragmentation. I am not speaking by way of reproach to that community that it should have adopted that system".

Sir, these are the main considerations which have led me to bring up the bill before this Assembly. The main and important provisions contained in the Bill are: (1) Provision for a new type of joint family with sufficient safeguards to check the too frequent divisions of property; (2) Provision by which a person can make deeds and settlements to enure till the life time of his grand children; (3) Provision for the right of pre-emption in respect of property of the co-sharers and (4) Provision to prevent the effect of certain recent rulings of the High Court which are contrary to the real intention of the legislature and the well established system of law governing the community and which are viewed with great concern by the community. Sir, now I may be permitted to deal with these matters in some detail. In regard to the first point, it has to be said that it is not possible to go back upon the old Marumakkathayam system as the community has, as a whole, adopted in practice, the Makkathayam system of inheritance. Even though the old system of inheritance has been changed, the joint family life, which is possible under the Makkathayam system of inheritance, has not been adopted by the community. If the joint family life under the new system of inheritance had been adopted or practised, that itself would have been a check on the too frequent fragmentation of holdings. We find for instance, in Bengal, under the Dayabhaga Law, joint family system, is the rule, the individual partition being very rare even though every member is entitled to a share in the family property. The provision contained in clause 6 of the Bill is intended for the purpose of enabling the children of the same parents to live a joint family life at least till the attainment of the majority of the minor children. The main advantages of a joint family life are the protection that it affords to minors and persons under disability and also the prevention of a too frequent division of property. Sir, the second provision contained in Clause 3 of the Bill is necessitated by the fact that gifts and settlements in favour of unborn persons are not valid under the existing law.

This, of course, is only an enabling provision, benefit of which could be availed of by persons whose circumstances may require it. The third provision contained in Clause 8 of the Bill regarding the right of pre-emption is absolutely necessary on account of the peculiar condition resulting from the operation of the Nayar Act. Under the Act, both males and females, unlike in the case of pure makkathayees, are entitled to equal shares in the tharwad property. The marriage of a girl by a person belonging to a distant place, naturally necessitates

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the disposal of the girl's share, in order that she may settle down in her husband's place. In such cases, it is only reasonable that her share in the tharwad properties should be sold to the co-sharers. There is also yet another reason for making such a provision. Alienation to strangers of the tharwad house and the sacred places of common worship allotted to her share could be prevented by enabling the co-sharers to have a right of pre-emption in such cases.

The provisions contained in clauses 4 and 7 of the Bill have been necessitated by certain recent decisions pointed out in the objects and reasons appended to the Bill. These amendments are intended to give effect to the intention of the Legislature in passing the Nayar Act as also the interpretation already given to it by some of the full bench decisions which are in consonance with such intention. It is observed in certain rulings of the High Court that the Legislature should intervene and clarify the position. The object of Clause 7 is to uphold the decision of the fuller bench reported in 26 T. L. J. 29, the authority of which has recently been shaken by a decision reported in 33 T. L. J. 419. It really pains me much to have to submit that the decision in 33 T. L. J. 419 has unsettled the law which has been acted upon and recognised by the community as the correct law for the last two decades. There are certain other recent decisions of the High Court which also may have the effect of unsettling the long established law and usage followed by the community. It is hoped that the High Court itself will set this right in due course.

I do concede that the Bill may require modifications and enlargements, but I trust that the Select Committee will rectify the defects and drawbacks and make it better and more beneficial to the community for which it is intended. With these observations, I pray that the principle of the Bill be accepted by this honourable House.

The proposal was seconded.

MR. K. K. CHELLAPPAN PILLAI: Is the honourable member aware that there was a committee called the Pandalam Nayar Conference to inquire into the matter?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I am not aware of a committee called the "Pandalam Nayar Conference".

MR. K. K. CHELLAPPAN PILLAI: Is the member aware of anything done by that committee?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: As the committee appointed by the conference did not work, the matter was again considered by the representative organisation of the community. It was decided that a Bill may be introduced in the Legislature.

MR. K. K. CHELLAPPAN PILLAI: Who were the people responsible for the drafting of this Bill?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: No committee was constituted for drafting the Bill.

MR. K. K. CHELLAPPAN PILLAI: I meant who were entrusted with the charge of drafting the bill.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Nobody was specifically entrusted with the work. On account of my intimate knowledge of the community I was persuaded to introduce the measure.

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MR. K. K. CHELLAPPAN PILLAI: Is the honourable member Mr. Velayudhan Pillai a member of the Pandalam Nayar Society?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: There is no such organisation as the Pandalam Nayar Society.

MR. K. K. CHELLAPPAN PILLAI: I mean the committee appointed by the Pandalam Conference.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I was not a member of that defunct committee.

MR. G. PARAMESWARAN PILLAI (*Ambalapuzha* cum *Shertalai*) പന്തളം നായർ കൺഫറൻസ് തിരുവിതാംകൂറിലെ മുഴുവൻ നായന്മാരേയും പ്രതിനിധീകരിക്കുന്നതായിരിക്കുമല്ലോ?

MR. T. K. NARAYANA PILLAI: In the objects and reasons, it is stated that 'there was a growing desire now manifested itself in the community to evolve a new type of joint family.' Will the honourable member enlighten as to how it is manifested?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Because I could know that desire from the opinion given expression to in several important conferences held in different parts of the State.

MR. T. K. NARAYANA PILLAI: Will the member be pleased to state what those conferences are and when they were held?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: The Nayar conferences held repeatedly under the anspices of the Nayar Service Society.

MR. K. K. CHELLAPPAN PILLAI: Does the member know whether in the committee appointed by the Pandalam Nayar conference there were lawyers.

PRESIDENT: Mr. Velayudhan Pillai has stated that it is a defunct body and that it has never met.

MR. K. G. KESAVAN NAIR: I very strongly support the bill moved by Mr. T. P. Velayudhan Pillai. It is now 20 years since the Nayar Act was enacted and enforced. Much water has flowed under the bridge since then. Even when the Act was under consideration there was very strong controversy. But in spite of that, the Act was passed and since then many of the Nayar families in the State have been divided. In the partition that have been effected in the Nayar tharwads one or two features can be noticed. One of such is that in almost all families what is generally found is that the majority of the male members are given their shares and they are allowed to leave the common tharwad while the female members with their children, almost always with minor children and sometimes with major children also, were allowed to form separate branches of the tharwad. As such now instead of a very big common tharwad with branches and sub branches and collateral branches, we find a number of small sub tharwads. The major male members are divided from the common tharwad' Now it is 20 years' since this system was imposed. I think it is the best opportune moment when the community should pause to consider what is to be the next stage of legislation. Even the sub tharwads are about

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to be sub divided and that leads to disintegration of the whole tharwad. Therefore now is the time to consider about the future of the community.

I do not claim the bill which is now introduced by the honourable Mr. T. P. Velayudhan Pillai to be the best. It has its own drawbacks and its own defects. The Bill, therefore, should be referred to a Committee of experts, and the committee, I would suggest, should travel all over the country and take stock of the situation as at present and the conditions prevailing among the community and consider about the status of the sub tharwads that are now in existence. After a very elaborate and detailed enquiry, they should submit a report.

The principle of pre-emption that is incorporated in this Bill is of the most useful kind. We are sorry that this principle is not contained in the Act of 1100 If it had been introduced in that Act, much of the sorrows and much of the damages which the tharwads have had to undergo could have been avoided. With these few words I very strongly support the Bill introduced by Mr. T. P. Velayudhan Pillai.

MR. M. R. RAMAKRISHNA PILLAI I oppose the principle of the Bill. The Bill has been improvised to prevent acceleration of division, or in other words, deliberately, to retard partition. I am sure that nobody would want to drive the Nayar community back to the old system. This Bill would, in effect, be sending back thecommunity to the Marumakkathayam system. We would be, in that case more or less asking the Ganges to flow back to the Himalayas.

Of course, I admit there are advantages in joint family system, which has been tried and worked for centuries. But today, individualism, recognised as a principle of legislation and State action has come to stay. The very object of the Nayar Act was to confer on the units of the overgrown tharwad, proprietory rights. Each individual who has a share must have the right also to dispose of it in the way that he chooses. *Utunte et abutante* i. e. use and abuse is the main incident of property and ownership. My friend the mover of the bill says that a growing desire has manifested itself in the community to evolve a new type of joint family, the details of which he has neither enumerated nor explained in his statement of objects and reasons. To me it appears to be a dangerous experiment at law making.

In his statement of objects and reasons. the mover has made many sweeping statements without furnishing House with—facts, I mean ascertained facts—in support. To act without the help of ascertained facts would be a leap in the dark. This is a matter affecting the well-being of an important community.

Of course, I am not unaware of the fact of the "defunct" committee of a conference held under the auspices of the Nair Service Society, at Pandalam to enquire into this matter. The mover himself was a member of that committee. Another member of that committee and a member of the last Assembly met me yesterday. I asked him why

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the committee could not implement the resolution of the conference. He told me that the concensus of opinion was against amending the Nayar Act.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know the name of member who met him?

MR. M. R. RAMAKRISHNA PILLAI: If the honourable member is so very inquisitive, I may mention his name. He is Mr. P. Narayana Pillai who was a member of the last Assembly. When he met me, I asked him why the committee did not proceed with their enquiry. He said that the concensus of opinion in the community was against amending the Nayar Act. In his reply he also said, "fools rush in where angels fear to tread". That is the position. That apart, if Mr. Velayudhan Pillai had supplied us with any ascertained facts to proceed upon, rather, had the mover supplied us with any definite set of facts as the mover himself was a member of that "defunct" committee, the House might have had something to proceed upon, something which might have been the first step in the exploration of a difficult question affecting the well being and interests of an important community. The honourable mover has made a few statements. The burden of proof is on him. It is a heavy burden, no doubt. He has not succeeded in establishing a case for the amendment of the Nayar Regulation of 1100.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the honourable member whether this bill contains any provision against partition provided for in the existing Nayar Act?

MR. M. R. RAMAKRISHNA PILLAI: The general concensus of opinion is that the mover's bill would drive the Nair community to the old Marumakkathayam system.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: My question is, whether the amending bill contains any provision against partition, provision embodied in the Nayar Act?

MR. M. R. RAMAKRISHNA PILLAI: The whole thing in effect is that.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I inform the honourable member that the amending bill does not in any way affect the right of partition conferred by the existing act with regard to the tharwad property.

MR. A. NESAMONY (*Kalkulam cum Vilavancore*): The whole of Section 5 A is objectionable from that point of view. It does affect the right of partition.

MR. M. R. RAMAKRISHNA PILLAI: Rather it puts a restraint on partition.

Whatever that be, my position is this. If we look back in the proceedings of the old Legislative Council we see a parallel instance. In 1091 Mr. T. K. Velu Pillai introduced a bill in the Legislative Council for Taivazhi partition. It was fully deliberated upon. He

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stressed vehemently against individual partition and fragmentation of holdings citing famous economists like Dr. Keeting and others as authority. His bill was opposed by no less a person than the late Mr. Changanacherry Parameswaran Pillai who was for years and years functioning as the President of the Nayar Service Society and who moved the Nayar Regulation Amendment Bill of 1100. Mr. Changanacherry Parameswaran Pillai argued that Taivazhi partition was a halting measure and that the full and unrestricted right of individual partition was the only means of saving the Nayar community from the economic degradation and ruin that was stalking them from all sides.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Does the member suggest that the provision contained tally with that by which the late Changanacherry Parameswaran Pillai influenced the decision?

MR. M. R. RAMAKRISHNA PILLAI: I am only talking about the principles and I am not going into the details of the bill at present as allowed by the rules.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: One of the provisions contained in the bill is to give effect to the opinion of the late Changanacherry Parameswaran Pillai as expressed in his ruling.

MR. M. R. RAMAKRISHNA PILLAI: That may be. I am only talking of the principles involved in the present bill at this stage as allowed by the rules.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Then, this is the principle.

MR. M. R. RAMAKRISHNA PILLAI: Let it be as it is. What I was saying was that there should be full and unrestricted right for an individual for partition of his share of the property.

Of course, the leaders of the community took a keen interest in the question, and after deliberations for about 10 years the Nayar Regulation Amendment Act of 1100 was passed. I may say that no legislative measure in living memory was more carefully deliberated upon than this bill. Conferences were held in all the taluks in the State and the mover of the bill was well strengthened in his position by the mandate of the community. Other communities such as the Ezhavas, Kshatriyas etc. also evinced an abiding interest for various reasons, not the least being the feeling that this act would form the basis of legislation for the sister communities as well for modifying the marumakkathayam system. It may be of interest to remember that that Council contained a galaxy of eminent men, leaders of the community, leading lawyers such as the late Messrs. Krishna Aiyangar, V. Subba Aiyar, Changanacherry Parameswaran Pillai, P. K. Narayana Pillai and last but not least, the two living and illustrious stalwarts of that faded galaxy, who occupy the two most prominent positions on the Government benches, the Chief Secretary to Government Mr. G. Parameswaran Pillai and the Legal Remembrancer Mr. N. Ramakrishna Pillai.

In view of all this, Sir, are we justified in altering the laws on the subject periodically especially without any positive information as

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to the feeling of the community on the subject ? Are we to attach more weight to a resolution of a conference which was never acted upon, than to the innumerable resolutions repeated in platform after platform for a number of years immediately preceding the Nayar Act of 1100 and also supported by leading articles in reputed and respectable newspapers, and which formed the subject of well conceived representation on the floor of the old Sri Mulam Popular Assembly and the Legislative Council for years ? Is the Nayar community to be tossed about among leaders that spring up from time to time? Is this impending calamity of the disruption of the family property and fragmentation of holdings peculiar to the Nayar community alone? My friend the mover states that the evil of fragmentation is viewed with equally great concern by the Government as well. I hold, Sir, that it is wrong in principle to appeal to Government by reference or suggestion to interest themselves in communal or compartmental legislation.

PRESIDENT: May I suggest that in a matter where there are such divergent views questions may be put at the end of the speech so that the speaker's trend of ideas may not be disturbed. Ordinarily it does not matter but this is a social legislation in which very strong views are held on both sides. In view of this, questions may be put at the end of the speech.

MR. M. R. RAMAKRISHNA PILLAI: So far as the State is concerned the prevention of fragmentation is a matter of general public interest. That is a more important matter as far as the Government is concerned than amendment of the Nayar Act.

PRESIDENT: There is one more point. So far as the Government are concerned their attitude towards social legislation is well known. In social legislations of this kind it is a matter for the community concerned to come to a decision and Government are not going to vote whatever their views may be on the present state of the community and the diagnosis which led that community to the present plight. As such Government are not going to take any part in the decision of this matter and Government members will not vote. But certain Government members have asked permission of Government that they in their individual capacity and as members of the community should be allowed to express their views. If they want to do so that will be permitted. But Government as such would not take part in the vote or in the discussion of the subject as Government. It is a matter left to the community.

MR. M. R. RAMAKRISHNA PILLAI: Sir, in the statement of objects and reasons the mover has said :—"The frequent fragmentation of holdings resulting from the new system of inheritance is a serious evil which is viewed with great concern by the community, and it has also been noticed with equally great concern by the Government".

PRESIDENT: The point is this. There is no disguising the fact that the Nayar community today is essentially from the industrial and economic point of view one of the ineffective communities in the State.

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There is no doubt about it. It is from an experience of 30 years I am saying that the community has been growing more and more ineffective year after year. So it is for the community to decide about their fate.

MR. M. R. RAMAKRISHNA PILLAI: Sir, if the Government have any intention of checking the evil of fragmentation and preserving parcels of land as economic holdings they cannot afford to look on wistfully the process of fragmentation going on in other communities. Nayars form only about nine lakhs of the 61 lakhs of the population in the State. I cannot for one moment entertain the idea that there is any paucity of legislative talent at the disposal of the Government. Why cannot the Government undertake a well designed and comprehensive measure to check this apprehended evil? If legislation is deemed necessary I trust the Government themselves will come forward with a properly framed bill. It should be a land law and not a personal law.

I may conclude by saying that as I find no provision in the legislative rules of the State to circulate the bill for eliciting public Opinion in the matter, as in the central Legislature, I cannot but ask the House to reject the Bill in toto.

MR. A. P. UDAYABHANU: Sir, I oppose the Bill. It strikes me as an attempt to build the bund after the water has drained away. Now it is too late in the day to make an attempt to preserve the old family ties and old family traditions, in so far as the disruption of Nayar tarwads has taken place. Moreover the disruption of the family was also one of the main motives that moved the leaders of thought in the Nayar community to adopt the existing Nayar Act. In the objects and reasons it is stated:—The Nayar Act II of 1100 though it achieved the much desired change in the system of inheritance resulted eventually in the disruption of Nayar tarwads in the State. It was not a change of system in the inheritance alone that they desired but they wanted to put an end to the collective irresponsibility of Nayar tarwads. They wanted individualism and initiative to develop in the community. They wanted the stagnant lake which bred the malaria of strife and struggle to be drained. They wanted to be flooded by the initiative and enterprise of the individuals. The bund that is sought to be built by the honourable Mr. T. P. Velayudhan Pillai might at best prevent the little muddy water that is left behind from escaping but it will also prevent the flood of fresh water from coming in. Now this is going to end in the building up of a wall round the community making it a prisoner in its own house.

By clause 3 the rule of perpetuity is sought to be set at naught. By the explanation to section 31 the decrees of Courts are to be made ineffective. By clause 6, the mother, the children and the children's children are handcuffed together. This will develop immobility in the community. It will destroy the credit of the society. Internecine warfare and interminable struggle are the inevitable results. Clause

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8 alone shows some sane thinking in the whole Act. This Act is not going to save the community. It will hinder its progress. The days of landed aristocracy and its glories have passed away. The salvation of the community lies in reading the writing on the wall and taking to industry and commerce.

There is no use getting angry with the people who forge ahead by marching with the times. It is futile to run back into the fold of an anomalous joint family system which has no traditions, after 25 years of agitation for and 24 years experience in a system which envelops individualism. The new type of joint family system will be the hot-bed of discontent and strife. It will not have the past history or tradition which will go to the making of the mental attitude among the members conducive to the harmony of joint family life. History knows only two systems of joint family life. One is the patriarchal system as obtained in the Mitakshara law; the other is the matriarchal system as obtained in the Marumakkathayam law. These have evolved through ages. Through centuries of living in this system it has trained our instincts and moulded our minds and sentiments. Yet it could not withstand the onslaught of individualism. Where Marumakkthayam failed is this hybrid and upstart of a joint family going to succeed? You are imposing on the community a joint family by legislation and build up a tradition today. It will be disastrous. Even now the Nayar mother and Ezhava mother brought up in the traditions of Marumakkathayam law sets different standards for the daughter's child and the son's child. The daughter's child is looked upon as her own child, belonging to her own kith and kin. But the son's child is looked upon as the child of a stranger woman. This is an hybrid and upstart of a joint family system which cannot command the respect of the country. This is an attempt to postpone partition for sometime. The centrifugal forces that develop with the majority of the older children are sought to be curbed by the minority of the younger children. The result will be heat and hatred in the heart. Those who would normally have parted as friends and continued as friends will part as enemies by the time the majority of the last children unfetter the fretting grown ups.

Clauses 3, 4 and 6 will make the property of the Nayars almost *extra commercium*. Mobility alone can help the progress of a community. It will be definitely destroyed. Hard work and industrialisation alone can save the community. These cheap attempts at saving the community are futile and disastrous. The leaders of thought in the community must instil in the young men an enterprising spirit. Two weeks back when I was going along the shores of the backwaters of Karthigapally with a Nayar friend of mine I saw men and women working like bees on coir yarns. Near by I saw men and women evidently famished basking in the sun. My friend told me that the former were Ezhavas and the latter Nayars. Of course my friend had to confess to his guilt for not helping these people into some useful work. Any way this amendment will not help them. Only a new outlook on life can save them.

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As for the fragmentation of holdings this Bill is not of much use. In this country it is not only the Nayars that have got individual partition. So this legislation which affects only the Nayar community cannot solve the problem of fragmentation. For that we must have more comprehensive legislation which will affect the whole country. The Christians, Ezhavas and others have all got the system of individual partition. They own a considerable portion of the land in the country. So to prevent fragmentation we must devise some other law.

I oppose this Bill for it is dangerous in its consequences. I oppose it because, as far as I have been able to ascertain, the concensus of Nayar opinion is against it. I met and discussed with leading members of the Bar belonging to the Nayar community, not congress men but respectable old inoffensive Nayar Service Society gentlemen. They were horrified at it. I oppose it because of its possible reactions on my community and consequently on myself and my children.

MR. C. K. SANKARA PILLAI (*Thiruvella*): Sir, except for seections 4 and 8 I don't think there is any section which may after all do any good to the community when it comes to real working. It is a Nayar Act. As it is presented it will do more damage to the community than good. Firstly the crying need of the community as expressed by the resolutions in the conferences at Pandalam and other places as I understood was the prevention of fragmentation of property. I ask the mover what is there in this Bill to prevent fragmentation as it is conceived in its legal term.?. I see absolutely nothing except the provision made in section 8, *i. e.* Section 42 which as I believe and conceive things, is only a hazy idea. At the present day the community has completely lost sight of the ideal of Marumakkathayam tarwad and it is slowly moving to the Makkathayam system. The original movers of the Nayar Act of 1088, that is the old reformers, always thought simultaneously about individual partition and Makkathayam. But those people who subsequently intervened and continued the process forgot the main idea of individual partition along with Makkathayam but directed their energy on individual partition alone and the community as it now stands has reached a position when it has not reached the ideal with which it started the reform and it has gone back from the old system which has been tried and found wanting. The present Bill does not help to prevent fragmentation or to take the community to the position of the real Makkathayam system.

Coming to Section 2 (a) as it now stands it takes away the scheme and conception of the Act. As it is, Chapter IV, sect. 11 to 23 deal with intestate succession and chapter V with testamentary succession. The mover seems to introduce some additions to Section 23. My suggestion is that if at all it is necessary it should form part of the supplementary provision. It is an entirely different matter. The theme of the Act as it is, is destroyed by the introduction of this idea in Section 23. It could best be added as Section 46, with some alteration. Coming to Section 2 (b) this amendment in the Bill is not happy and is undesirable. Firstly the duties and responsibilities of a trustee as it is

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generally conceived are onerous and dangerous and so impossible for the ordinary Nayar to discharge them during his life time. But the mover seems to slight the matter. The legal incidents of trusteeship are foreign to the conception of Marumakkathayam law and so to put it into practice will be very difficult. It will create unnecessary litigation, ruin, and unnecessary heart burning amongst the family-members in the community. Coming to sub section (c) of Section 2, I have to say that this amendment as it now stands is also useless because it is restrictive. In the ordinary sense "division by metes and bounds" applies only to immovable property. In the original Act there is only the word "division". Probably the mover means "the total division" of the entire property. If the Section as it is, is allowed to stand, there will be quarrel and scramble among the surviving members for the movables even when the person is on his death bed. So the amendment contemplated will do more harm than good. The next Section 3 proposed to be inserted is simplifying :—

> "Notwithstanding any rule of law to the contrary, any Nayar male or female shall be entitled to make any settlement, gift or bequest in respect of his or her self-acquired or separate property in favour of all or any of his or her lineal descendants who are not in existence at the date of such disposition, provided that such disposition does not extend beyond the life-time of his or her grand-children to whom the interest created is to belong".

Is it the movers idea that the lineal descendants not in existence is the same as grand-children ? or does he mean that by the disposition, the title is only by law to rest in the grand-children alone ?. Till the moment of vesting in whom is title to remain ? What is the extent of the right of the executant ?. These are matters which need explanation and clarification. If the Section is allowed to stand as it is, it will do more harm to the community than the Nayar Act of 1088 in the matter of litigation. After all what is the good of this enabling Section ? There is absolutely no good. But as it is, the Bill can create more litigation as the legal incidents are destructive to the community. It will be obstructive to the legal descendants to claim their legitimate inheritance. Section 24 A should also therefore go. As regards the Explanation to Section 31, it is a verbatim reproduction of the Section itself. Probably the mover thinks that the recent rulings of the High Court are against the interests of the community. I too accept. But if he does not want the representative suits, remove it altogether. In some cases the family consisted of thousands of people. It was for the purpose of filing suits and conducting proceedings easily that the representative suits were provided for in Section 31. Now because of the disintegration for which we are now crying, the number in the familes is reduced. I would suggest that Section 31 may be deleted altogether and we may governed by the general law so that there may be no representative suits in regard to the Nayar community. That will do some good to the people. If the explanation as it stands to Section 31 is accepted how can a valid decree be got ? It will do much harm to the public and to the community. Therefore that amendment is unnecessary.

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PRESIDENT: The House will adjourn for lunch and meet at 3 P. M.

The House adjourned for lunch at 2 P. M.

The House reassembled after lunch at 3-0 p. m. with the President in the Chair.

Mr. P. A. Kasim, Textile Commissioner, took the Oath and signed the Rolls.

MR. C. K. SANKARA PILLAI: Sir, I was referring to Section 31. If the Bill is accepted, I would suggest the explanation to be that a member of the tarwad may seek to invalidate such a decree for want of consideration or tarwad necessity or any other vitiating causes. That would not make Section 31 nugatory. Section 5 would become necessary only if Section 6 is adopted. So, I pass on to Section 6. Section 35 (a) simplified the Section is; "The wife or the children of such wife or the lineal descendants of the deceased children shall not be entitld to claim their shares or to alienate their shares nor shall their shares be liable to be proceeded against in execution etc. during the lifetime of such wife or widow and of the minorities of any such child or children or such lineal descendants of deceased children." Apparently this restriction on free right relates only paternal properties. While the right of partition is completely accepted as to the family property, the restriction on partition of paternal properties creates a difficulty which becomes insurmountable. Firstly, supposing a person gets some property from the father and he gets 5 cents of land from his family, probably he will have a natural instinct for the property which is inherited from his family. If he has a right to alienate the paternal property he can do so and acquire a few more cents near the property which he had obtained from the family, probably from the family house itself and he will be anxious to do that. But the difficulty will be insurmountable, and it will be so because of this Section. Secondly, the ban of this Section relates only to the wife and children and grand-children. The mother is an heir according to the Nayar Act. She can claim her share, can sue for partition and get the share if this Section is allowed to stand as it is. Thirdly, this Section does not prevent the parties interested in the property to execute a partition deed and take their shares. The Section mentions that the heirs enumerated are entitled to the estate. They take specific shares also. So, no joint family is conceived or comes into existence. Fourthly, it very often happens that a person has children by a deceased wife and a living wife with children. In that case, the Section will not hit the living children of the deceased wife but would hit the lineal descendants of the deceased children even amongst them. Thus, they can claim their shares as full owners and deal with their shares. Fifthly, full ownership is a status to be achieved after the death of the widow or after the majority of children or lineal descendants of the deceased children. The wife or the widow can never enjoy the full ownership of property and this Section practically disinherits the wife who is one of the real owners of the property. She has no shares until her grand-children become of age. If this Section is left as it is, it practically disinherits the wife; that is the mother. Sixth, the provision, extending to the minority of the lineal descendants, is harmful and unwholesome in law. For example,

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A dies leaving X, Y and Z, the children of his daughter, by a pre-deceased wife, B a widow and C a son by B. X Y Z are minors. Before Z comes of age X, a daugter dies, leaving two minor children P and Q. According to Section 35 (a) as it now stands in the Bill, the actual partition can only be effected after both the children, P and Q come of age and then only if B dies. There is no reason underlying this provision extending to the minority of grand-children. When it is a case of lineal descendants of a son, they are as per the present conception, a graft on a strange Marumakkathayam sub-tarwad. The son's children are members of a different family. This Section 35 (a) wants a heterogeneous group of three generations to live together and to live in compulsory unity without quarrel for a very long time. This is absolutely impossible and the life of so many members will be in danger. The deceased man's children do not get their share. Therefore, the conception underlying this Section (Section 35 A) is against the individualistic tendencies of the present day, and against the entire sense of the Nayar community—as I understand it—and the conception is to press certain people, completely heterogeneous, to live together in the same family to enjoy the same property without partition for a long number of years till the grand-children become of age and the mother dies. This is most dangerous and I think the life of the mother should be insured first so that people may not commit atrocities against her. The life of the grand-children should also be preserved so that they may also be in safety. If Section 35 A is inserted as it is, it is very dangerous. It causes unnecessary litigation, hardship, hot-blood and havoc in the community.

This provision would be of some good to the community if suitable ammandments are made in the Bill so that the father and mother with their children may form a Makkathayam family irrespective maternal or paternal properties which one can conceive of. But the collaboration of a Marumakkathayam family with the so called stranger children from the other family to be conceived as forming a single family, is atrocious and difficult of imagination. Lastly, the idea of the mover is that paternal property should not be divided nor partitioned nor alienated during the lifetime of the mother. I welcome that idea, and separate provision may be made till the death of the wife or the owner, or till the majority of the children of the owner. To conserve this property for the third generation without full right is dangerous to society, which by 32 years of consistent even though unhappy habit has moved from what is called the "status" position to the present position of "contract". To say that this community should go back, and remain with the old joint family is impossible. As far as I have been able to gather from educated friends of mine, this Section is most dangerous to the community.

I come now to Section 7 and the explanation to Section 39. It speaks of partition till preliminary decree. This is a most dangerous provision because according to the Act, individual partition is allowed. A member is entitled to partition. According to the provision, contained

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in this explanation, if a person sues for partition, and he has got children, to whom, he intends to give his share if an alienee in the case of the family property puts in his written statement and contests the suit, the poor man has to spend money and he may not get his share. If the suit is dragged on at least for some years and in the meanwhile if he dies, before preliminary decree his wife and children will have no share in the property. It is thus a hard case. I would welcome the present law as it stands, because it has got an advantage. When a right to partition is conceded and accepted, there is no meaning in prolonging the agony of getting partition for an indefinite number of years. Therefore this explanation to Section 39 under partition is unnecessary and unwholesome and injurious to the community.

In conclusion, I would say that the Bill as it is introduced in the Legislature, has not the concensus of the community. It was not published in the papers. The opinion about this Bill was not invited from amongst the members of the community, so far as I understand. There was a proposal at the Nayars' Conference at Pandalam and certain leading members of the community were selected and authorised to propose amendments to the Nayar Act. That conference did not mention any of the provisions now proposed by the mover. The Bill is brought forward without the consent of the community which has travailed for 32 years under strain, litigation and difficulties and has finally obtained full absolute right. Here we say that they must compulsorily unite together. The opinion of the community was not consulted in the matter. While I believe that a Bill to remedy the ailments in the present Nayar Act is essential for the community, I sincerely feel that this Bill as it now stands, will do more harm to the community than good. Therefore, the better method will be that a Bill that will form what is called entire Makkathayam should be introduced than any other method of legislation. The Bill as it stands is defective. There was no consultation or public opinion nor was there any criticism or evidence taken. I therefore strongly oppose these provisions in the Bill. However, Section 8 is welcome, but the real benefit that is derived from that sole section, I am afraid, is very small and insignificant compared with the difficulties and dangers that may be encountered by the community by enacting a Bill like this. Therefore, weighing the balance of convenience I am of opinion that the Bill is not useful, and I oppose it.

MR. R. MADHAVAN NAIR: സർ, ഞാൻ ഈ ബില്ലിന്റെ ഉദ്ദേശത്തോടു യോജിക്കയും ഈ ബില്ലിനെ പിൻതാങ്ങുകയും ചെയ്യുന്നു. ബഹുമാനപ്പെട്ട മെമ്പർ മി. ടി. പി. വേലായുധൻ പിള്ളക്കു ഇങ്ങനെ ഒരു ഭേദഗതിബിൽ കൊണ്ടുവരുവാനുള്ള അവകാശത്തെ ചിലർ ഇവിടെ ചോദ്യം ചെയ്യുന്നതു കേട്ടു. ഇമ്മാതിരി ഒരു ബിൽ നായർസമുദായത്തിന്റെ പേരിൽ കൊണ്ടുവരുന്നതിനു മി. വേലായുധൻപിള്ളക്കു ധാർമ്മികമായി, സമുദായത്തിന്റെ പിൻതുണ ഉണ്ടെന്നാണു ഞാൻ വിശ്വസിക്കുന്നതു്. നായർസർവീസുസൊസൈറ്റി മാത്രമാണു നായന്മാർക്കു ഇന്നു തിരുവിതാംകൂറിൽഉള്ള ഏകസമുദായസംഘടന.

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[Mr. R. Madhavan Nair.]

അങ്ങനെ ഒരു സാമുദായികസംഘടന മാത്രമുള്ളപ്പോൾ ആ സമുദായത്തിന്റെ അഭിപ്രായം ന്യായമായി പ്രതിനിധീകരിക്കാനുള്ള അവകാശം ആ സംഘടനയ്ക്കോ അതിനെ പ്രതിനിധീകരിക്കുന്ന ആളുകൾക്കോ ആണെന്നുള്ളതു തന്നെ വളരെ ന്യായമായ ഒരു തത്ത്വം മാത്രമാണ്. അതിരിക്കെ ഒരുപക്ഷിഗ്കമ്മിറ്റി മെമ്പറായ മി.ടി.പി.വേലായുധൻപിള്ള ഹാജരാക്കിയിരിക്കുന്ന ഈ ബില്ലിനു നായർസർവീസുസൊസൈറ്റിയുടെ അധികൃതമായ അംഗീകാരവും അനുമതിയും സിദ്ധിച്ചിട്ടുണ്ടെന്നുള്ളതും നിസ്തർക്കമാണ്. ആക്ഷേപങ്ങൾക്ക് യാതൊരു അവസരം കിട്ടാതെ വിധം ആദ്യമേതന്നെ ഈ ബിൽ ഗസറ്റിൽ പരസ്യം ചെയ്തിട്ടുള്ളതുമാണ്. എന്നിട്ടും ആരും യാതൊരാക്ഷേപവും പ്രകടമാക്കാതിരുന്നതുകൊണ്ടു ഈ ബിൽ സമുദായത്തിനു സ്വീകാര്യമാണെന്നു ഉദ്ദേശിക്കേണ്ടതാണ്. അതിനും പുറമേ നായർസമുദായത്തിനു ഇമ്മാതിരി ഒരു ഭേദഗതിബിൽ അവതരിപ്പിക്കണമെന്നുള്ള അഭിപ്രായം വളരെ മുമ്പു തന്നെ ഉണ്ടായതായി പന്തളം നായർ സമ്മേളനത്തിൽ പ്രകടമാക്കുകയും അതിലേക്ക് ആ ഒരു കമ്മിറ്റി രൂപീകരിക്കുകയും ചെയ്തിട്ടുണ്ട്. അതു ഫ 0 0-ലെ നായർ ആക്റ്റിൽ അനുഭവപ്പെട്ടിട്ടുള്ള ദുഷ്യങ്ങളെ പരിഹരിക്കുന്നതിനു വേണ്ടിയാണ്. എന്റെ ഓമ്മ ശരിയാണെങ്കിൽ എന്റെ സ്നേഹിതൻ മി. ചെല്ലപ്പൻപിള്ളയുടെ അമ്മാവൻ മി. ജി. കൃഷ്ണപിള്ളയായിരുന്നു ഈ കമ്മിറ്റിയുടെ അദ്ധ്യക്ഷൻ. ഫ 0 0-ലെ ബിൽ കൊണ്ടു ശരിയായ ഗുണം സമുദായത്തിനു സിദ്ധിച്ചിട്ടില്ലെന്ന് ആ കമ്മിറ്റി രൂപീകരിച്ചിട്ടുള്ളതുകൊണ്ടുതന്നെ തെളിയുന്ന സ്ഥിതിക്കു എന്റെ സ്നേഹിതൻ മി. വേലായുധൻപിള്ള അവതരിപ്പിച്ചിട്ടുള്ള ഭേദഗതിക്കു സമുദായത്തിന്റെ പരിപൂർണ്ണപിൻതുണയുണ്ടെന്നുള്ളതിനോടു ഈ സഭയും യോജിക്കുമെന്നു ഞാൻ ആശിക്കുന്നു.

MR. K. K. CHELLAPPAN PILLAI : ആ കമ്മിറ്റിയുടെ കൺവീനർ ആരായിരുന്നു.?

MR. R. MADHAVAN NAIR: ഈ നിയമസഭയിൽ ഏതാണ്ടു ഒരു വ്യാഴവട്ടക്കാലം മെമ്പറായിരിക്കാൻ ഭാഗ്യവും സിദ്ധിച്ച മി. വേലായുധൻപിള്ളക്കു ആവശ്യമായ നിയമപാണ്ഡിത്യവും സമുദായത്തിന്റെ പരിവർത്തനങ്ങൾ അപ്പോഴപ്പോൾ അറിയാൻ ഭാഗ്യവും ഉണ്ടായിരുന്നിട്ടും ഇമ്മാതിരി ഒരു ഭേദഗതി ബിൽ ഇതിനു മുൻപുതന്നെ കൊണ്ടു വരാതിരുന്നതിൽ ഞാൻ അദ്ദേഹത്തെ കുറ്റപ്പെടുത്തുകയാണ് ചെയ്യുന്നത്. എന്റെ ചില സ്നേഹിതന്മാർ ഇവിടെ ഉന്നയിച്ചിട്ടുള്ളത് ഈ ഭേദഗതി ബില്ലുകൊണ്ടു മന്ത്രിക്കസേരയിലേയ്ക്കു തിരിച്ചുപോകാം എന്നുള്ള ഒരു ആക്ഷേപമാണ്. നിയമപണ്ഡിതന്മാരായ അവർ പറഞ്ഞിട്ടുള്ള അഭിപ്രായങ്ങളോട് ഞാൻ യോജിക്കുന്നില്ല.

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തറവാട്ടസ്വത്തുക്കളെപ്പറ്റി ഈ ബില്ലിൽ യാതൊരു വ്യവസ്ഥയും ചെയ്തിട്ടില്ലാത്ത നിലക്കു മേൽപറഞ്ഞ ആക്ഷേപം അർത്ഥശൂന്യമാണ്. ഈ ഭേദഗതിയിലെ ഒരു വ്യവസ്ഥ, പിതൃരാജ്ജികസ്വത്തിനെ സംബന്ധിച്ചിടത്തോളം അമ്മയും അവരുടെ സന്താനങ്ങളും കൂട്ടുകുടുംബമായി അവരുടെയും സ്ഥാപിതതാല്പര്യങ്ങൾക്കു ഹാനി വരാതെ ഒന്നിച്ചു കഴിയുന്നതിനുള്ള കാലം കഴിയുന്നതു ദീർഘിപ്പിക്കുക എന്നുള്ളതാണ്. ൧൯൦൦-ലെ ആളോഹരിക്കാലത്തുപോലും കൂട്ടുകുടുംബമായി ഒന്നിച്ചു കഴിയാൻ ആഗ്രഹിച്ചിരുന്ന ധാരാളം കുടുംബങ്ങളെ എനിക്കറിയാം. പെൺകുട്ടികളുടെ സന്താനങ്ങൾക്കും ഓഹരികൊടുക്കണമെന്നുള്ള നിയമശാസനംകൊണ്ടുമാത്രമാണ്, ഒരമ്മയുടെ ആൺസന്താനങ്ങൾ ഓഹരി ആവശ്യപ്പെടാൻ ഏറിയകൂറും നിർബന്ധിതരായതു്. പിള്ളരാർജ്ജിത സ്വത്തിനെ സംബന്ധിച്ചിടത്തോളം ഇപ്രകാരം ഇല്ലാത്തടത്തോളം കാലം സന്താനങ്ങളുടെ എല്ലാം ഹിതം സുരക്ഷിതമായിരിക്കുന്നതുകൊണ്ടു മേൽപ്രസ്താവിച്ച ഭയത്തിനു പ്രസക്തിയില്ല. അതുകൊണ്ടു് ഈ ഭേദഗതിയെ സമുദായം സസന്തോഷം സ്വീകരിക്കുമെന്നാണു് എന്റെ വിശ്വാസം. അടുത്ത ആക്ഷേപം ഫ്രാഗ്മെന്റേഷൻ തടയേണ്ടതു് നായർസമുദായത്തിനു മാത്രമുള്ള ഒരാവശ്യമല്ലെന്നാണു്. എങ്കിലും നായരുടേതു തടഞ്ഞതുകൊണ്ടു മറ്റാർക്കെങ്കിലും ദുഃഖം ഉണ്ടോ എന്നാണു എനിക്കു ചോദിക്കുവാനുള്ളതു്. നായർക്കുണ്ടായിരുന്ന ഭൂസ്വത്തു തുറിലെ നിയമംകൊണ്ടു ശിഥിലീകൃതമായിട്ടുള്ള പരമാർത്ഥം ഏതു നായരോടു ചോദിച്ചാലും സമ്മതിക്കാതിരിക്കയില്ല. ഭംഗിയായ ഭാഷയിൽ എഴുതിക്കാം. ആദർശങ്ങൾ പ്രസംഗിക്കാം. അതിന്റെ പ്രായോഗികമായ വിഷമതകളും സമുദായത്തിന്റെ അധഃപതനവും, ഇതുത്തോളമായിട്ടും ചിന്തിക്കുവാൻ തുനിയുന്നില്ല. എന്റെ സ്നേഹിതൻ മി. ഉദയഭാനു പറയുന്നതു ഈ ബില്ലു പാസായാൽ നായന്മാരുടെ ഇൻഡസ്ട്രിയൽ സ്പിരിറ്റു നശിച്ചുപോകുമെന്നാണു്. തുറിലെ ബില്ലിനു് ഈ സ്പിരിറ്റു തന്നെയാണു പിൻതുണ നല്കാൻ കാരണം അതുകൊണ്ടുതന്നെ നായന്മാരുടെ സ്വത്തു മുഴുവൻ കൈവശംവച്ചു് യഥേഷ്ടം അനുഭവിക്കുന്നു, അനന്തരവർക്കു് ഒന്നും കിട്ടുന്നില്ല എന്നും മറ്റും പറഞ്ഞു് പെരുപ്പക്കാരെ ഇളക്കിവിട്ടു് ഇതിനെക്കുറിച്ചു് ഒരു പ്രക്ഷോഭണം ഉണ്ടാക്കി. എപ്പോഴും പ്രക്ഷോഭണത്തിനു എവിടേയും ആളുണ്ടു്. ഒരു മതപ്രസംഗമാണെന്നു കേട്ടാൽ ആളുണ്ടാകയില്ല. ലഹള ഉണ്ടാകുന്നിടത്തു് ആളു ധാരാളം കൂടുന്നു. ഒരു

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[Mr. R. Madhavan Nair.]

സാമുദായിക നിയമത്തെ വിപ്ലവകരമായവിധം പരിവർത്തനം ചെയ്യുന്നതിലേയ്ക്ക് ഇറങ്ങുന്നവരുടെ കൂടെ ധാരാളം ആളുണ്ടാകും. ഉടൻതന്നെ വ്രതം വാങ്ങിക്കാമെന്നും അവരെയ യഥേഷ്ടം വിറവ് ചെലവഴിക്കാമെന്നും ഉള്ള ഒരു ഒറ്റ ഉദ്ദേശത്തോടുകൂടിയാണ് അന്നത്തെ യോഗങ്ങളിൽഇത്ര യധികം ചെറുപ്പക്കാർ കൂടിയത്. ഈ നിയമസഭയ്ക്കകത്തും പുറത്തും അന്നും ഈ സമുദായത്തിലുള്ള നിയമപണ്ഡിതന്മാർ ഉണ്ടായിരുന്നു. നായർ സമുദായത്തെ ഈ രാജ്യത്തില്ലാതാക്കുന്ന ഒരു ബിൽ ഉണ്ടാകുന്നല്ലോ എന്ന് അവർ സങ്കടപ്പെട്ടിരിക്കാം. എന്നാൽ അന്നത്തെ നിലയ്ക്ക് അല്ല അവർക്കവിടെ പറയാൻ നിവർത്തിയില്ലായിരുന്നു. അത്ര പ്രക്ഷുബ്ധമായ ഒരന്തരീക്ഷമാണ് അന്നുണ്ടായിരുന്നത്. ഇൻഡസ്ട്രിയൽ സ്പിരിറ്റ് കുത്തിവയ്ക്കാവുന്ന ഒന്നല്ല. നായർതറവാട് പാസായതിനുശേഷം നായർ സമുദായത്തിന് ഈ ഇൻഡസ്ട്രിയൽ സ്പിരിറ്റ് എത്രമാത്രം വർദ്ധിച്ചിട്ടുണ്ടെന്ന് നാം കണ്ടുകഴിഞ്ഞു. അതേപ്പറ്റി കൂടുതലായൊന്നും പറയണമെന്ന് ഞാൻ വിചാരിക്കുന്നില്ല. ഏതെങ്കിലും സമുദായത്തിനായാലും ഇമ്മാതിരി പരിവർത്തനഘട്ടങ്ങളിൽ സമുദായത്തിന്റെ രക്ഷയ്ക്കു വേണ്ടി നിയമത്തിൽ പല ഭേദഗതികളും ഹാജരാക്കേണ്ടതായുണ്ട്. അങ്ങനെയുള്ള ഒരു ഭേദഗതി മാത്രമാണ് ഇവിടെ അവതരിപ്പിച്ചിരിക്കുന്നത്.

ഈ ബില്ലിൽ ക്ലാസ് നു ആയി ചേർത്തിരിക്കുന്നത് ഒരാളിന് ഒരു കൈമാറ്റമോ മരണ ശാസനമോ എഴുതുവാൻ അദ്ദേഹത്തിന്റെ മക്കളേയോ മക്കളുടെ മക്കളേയോ കൂടി ഉൾപ്പെടുത്തി എഴുതാം എന്നും അതിന് നിയമസാധുത്വം ഉണ്ടെന്നും മാത്രമേയുള്ളൂ. ഇത് എല്ലാവരേയും ബാധിക്കുന്ന ഒരു നിർബന്ധിതനിയമമല്ല. എന്റെ മകൻ വളരെ ചീത്തയായ നടപടിക്കാരനാണെന്നും അവന്റെ കൈവശത്തു സ്വത്തു കിട്ടിയാൽ അവൻ അതു മുഴുവൻ നശിപ്പിക്കും എന്നും എനിക്കു ബോദ്ധ്യം ഉണ്ടെങ്കിൽ എന്റെ മക്കളുടെ മക്കളുടെ കാലംവരെ എന്റെ സ്വത്തു അന്യാധീനം ചെയ്യരുതെന്ന് കരാറുണ്ടാക്കിയാൽ അതു അതുക്കാണ് ഉപയോഗം ചെയ്യുന്നതു.

പിന്നീട് ഇതിൽ ഒരു ഭാഗം പ്രിയംപ്പെൻ എന്ന ഒന്നാണ്. അതു ഒരു കുടുംബത്തിൽ ഒരു ഷയറുകാരനു അവന്റെ ഭാഗം കൈമാറ്റം ചെയ്യണമെങ്കിൽ മറ്റു ഭാഗക്കാർക്ക് കൊടുക്കണമെന്നുള്ളതാണ്. അങ്ങിനെ കൊടുക്കുന്നതുകൊണ്ട് കൊടുക്കുന്ന ആളിനു നഷ്ടമുണ്ടാകാതിരി

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ക്കത്തക്കവിധം ഗവണ്മെൻറിൽനിന്നും സൂക്ഷിതവ്യവസ്ഥകൾ ഉണ്ടാക്കുന്നതാണ്. ഞാൻ ഇതിൻറെ നിയമവശങ്ങളിലേയ്ക്കു കടക്കുന്നില്ല. എനിക്ക് നിയമപാണ്ഡിത്യം കുറവായതുകൊണ്ട് ഞാൻ അതിനൊരുങ്ങുന്നില്ല. എങ്കിലും ഈ ബില്ല് നല്ലവണ്ണം പഠിച്ചുകൊണ്ടുതന്നെയാണ് സംസാരിക്കുന്നത്. ഈ രാജ്യത്ത് ജീവിക്കാൻ ആഗ്രഹിക്കുന്ന നായർ സമുദായത്തിന് ഇനിയെങ്കിലും "പ്രോഗ്മെൻറേഷൻ" തടയേണ്ടതു് വളരെ അത്യാവശ്യമായ ഒരു കാര്യമാണ്. ഈ ബില്ല് അതിന് പറ്റിയതല്ലെങ്കിൽ ഒരു സെലക്ട് കമ്മറിക്കയച്ച് ആവശ്യമായ ഭേദഗതികളോടുകൂടി ഇതിനേ പാസാക്കാവുന്നതാണ്. "പ്രോഗ്മെൻറേഷൻ" ഇതുകൊണ്ട് പരിപൂർണ്ണമായി തടയുന്നില്ലെന്നും ഞാനും സമ്മതിക്കുന്നു. ഇനിയെങ്കിലും ഈ മാതിരിയുള്ള ശിഥിലീകരണത്തേ തടയാനുള്ള ഭേദഗതി വ്യവസ്ഥകൾ 1088-ലേ നായർ ആക്ടിൽ വരുത്തിയില്ലെങ്കിൽ നായർ സമുദായം ഈ രാജ്യത്തു നാമാവശേഷമായിത്തീരുമെന്നാണ് എൻറെ വിശ്വാസം. ആകയാൽ മി. ടി. പി. വേലായുധൻപിള്ള കൊണ്ടുവന്നിരിക്കുന്ന ഈ ഭേദഗതി ബില്ലിനേ ഞാൻ ഒരിക്കൽക്കൂടി ശക്തിയായി പിൻതാങ്ങിക്കൊള്ളുന്നു.

MR. S. SANKARANARAYANAN TAMPI: Sir, I oppose the Bill introduced by the honourable member Mr. T. P. Velayudhan Pillai. If you look into the history of communal legislation it will be found that all communal legislations have been effected as a result of a strong feeling that has become prevalent in the community for a legislation. Let us look at the Nayar Act of 1088 and the Nayar Act of 1100. Now the Nayar Act of 1088 had been enacted as a result of a strong feeling among the Nayar community and the social leaders of that community conducted a sort of wide propaganda and agitational meetings and brought to the notice of Government the necessity for a legislation and the Nayar Act of 1088 was promulgated. After 1088 members of the community felt it a necessity to make possible the division of property in Marumakkathayam tarwads. A large scale of agitation took place in that community and at last after great deliberation and consideration bestowed by prominent men of that community who were very well aware of the social repurcussions that may be brought about, the Nayar Act of 1100 was enacted.

Now the honourable member Mr. T. P. Velayudhan Pillai comes forward to introduce a bill, which, though not substantially detracting from the main provisions of the present Act, yet seeks to import difficulties in the working of its provisions. It does not materially alter the main principles of the Act. If that was the intention of the mover I could have understood that and appreciated his ambitious scheme. His idea being only to create difficulties is the very reason I oppose it.

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MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the honourable member whether any provision in the original Bill is set at nought?

MR. S. SANKARANARAYANAN TAMPI: The question is absolutely irrelevant. I said that the mover does not want to set at nought the provisions of the Nayar Act.

The object, as is divined from the objects and reasons is this:

"The Nayar Act II of 1100, though it achieved the much desired change in the system of inheritance, resulted eventually in the disruption of many Nayar Tarwads in the State. Subsequent experience has shown that the provision of law which allowed such disruption, as a result of partition, was not an unmixed blessing. In the long run, its evils became more pronounced while the expected good results were few and far between so much so, that a growing desire has now manifested itself in the community to evolve a new type of joint family with sufficient safeguards to check the too frequent division of property....."

That is what he wants us to believe to be the object of the legislation which is now going to be introduced. My humble submission is that this bill, as it now stands, does not serve that purpose at all. Fragmentation of holdings is a thing which is looked at with very great concern by almost all the communities of Travancore. Piecemeal legislation intended to affect only particular communities is not going to prevent the evil. Looking at this from the historical perspective, I may be permitted to ask the honourable member whether there was any wish in the community as a whole to introduce this piece of legislation. Now it becomes necessary to question the representative character of the organisation which is purported to have moved for the introduction of this Bill. It has been affirmed by one of the honourable members that there is a body of opinion which is opposed to the present Nayar Act, and which has a right to represent the whole Nayars in Travancore. He means the Nayar Service Society. Being a point for debate I do not want to drag in a discussion on that. But yet does the Nayar Service Society represent the feelings of the Nayars of Travancore, the feeling and the aspirations and the welfare of the Nayars of Travancore? I contend it does not. It consists of only a handful of the so-called leaders of Nayar community and, in introducing the Bill, Mr T. P. Velayudhan Pillai said that.....

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: One question. May I know from the honourable member, who is the president of the Kara Yogam at Ennakad?

MR. S. SANKARANARAYANAN TAMPI: The president is one Mr. Varisseril Krishna Pillai.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Who was the former President?

MR. S. SANKARANARAYANAN TAMPI: The former president of that Yogam was my father. And it was because he felt that it was not representative of all the Nayars, that he gave up that office.

In introducing the Bill, the honourable Mr. T. P. Velayudhan Pillai observed that in one of the Nayar Service Society Conferences,

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which was presided over by the present Dewan of Travancore, he felt...

PRESIDENT: I did not preside over any meeting, I only opened a conference.

MR. S. SANKARANARAYANAN TAMPI: In his opening speech the Dewan said that he viewed with very great alarm, the fragmentation of holdings that was taking place in the community. And that led Mr. T. P. Velayudhan Pillai into moving for this Bill. Though the Dewan is an outsider to Travancore and by community a non-Nayar, yet he seems to have felt an extreme solicitude for the welfare of the Nayars and I could very well understand Mr. Velayudhan Pillai moving the Bill. But the solicitude which the Dewan has exhibited for the welfare of the community should alone not have induced Mr. Velayudhan Pillai into moving for it. Before coming to that conclusion, he should have looked into the history of legislation in the Nayar community and tried to feel the pulse of the community. He has not done so and what at best, he could say in justification of his action, is that he is a member of the Nayar Service Society, which claims to represent the whole of the Nayars in Travancore, which I strongly repudiate.

Now, let us look into the provisions of the Bill and see whether the objects which are sought to be achieved, are really achieved by it. I say it does not. The prohibition against division is only in the lifetime of the widow and the minority of any child or children or such of the lineal descendants of the deceased children. In making that provision the object is not secured, because when the widow or wife dies and the minority of the children ceases division would take place. The division can, at best, only be postponed. Is it a prevention against fragmentation of holdings? It is not. It is only the postponement of the evil day, as he thinks.

Then again, suppose there are three or four major children and a widow, and one minor child. What is the use of keeping the whole tarwad property intact without allowing it to disintegrate. If one of the major children has that enterprise in her or him to invest the proceedings of the sale of her or his share, and take economic advantage of that she or he is unable to do it. Is it well advised to prevent that?

As against these disadvantages let us look at the advantages. The disruption of families without proper safeguards for the proper utilisation or preservation of shares in the hands of irresponsible and impudent men and women has to some extent detrimentally affected the community. But there is a consolation in as much as the detriment is more or less, unavoidable in bringing about a state of society, in which young men and women, accustomed to a life of irresponsibility as a result of the joint family system, will begin to feel a sense of responsibility and seriousness in life. In a society in which new trends of property relations and new conditions of corporate life are introduced, it will take at least a few decades before the good effects could begin to manifest themselves. One has to wait and watch the results. It is only two decades since the Nayar Act has been passed.

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If at all any evil has been perceivable, it has to be accounted for, in the first instance psychologically, in the fact that it is a period of transition. After all, you cannot expect a whole community to throw overboard the customs and traditions followed for a life time and change over to the new order immediately an Act emerges out of the legisiative anvil. Human hearts cannot be expected to act like machines which work to the pressing of a button or the turning of a switch. And two decades of this disruptive tendency has now begun to inspire the young men and women of the community with a feeling of responsibility, and to prevent the engendering of that feeling is not well-advised. That is rather cutting at the root of the enterprising spirit of the community.

I have already adverted to the position that the general sense of the community has never been ascertained before the introduction of this piece of legislation. So far as disintegration is concerned, what is it against which prevention is afforded? There are ancestral property as well as paternal property. According to the law, as it stands at present, in a Marumakkathayam family, there are properties derived from the father as well as from the tarwad. The Bill as it now stands prevents disintegration only in so far as paternal property is concerned. Let us compare the position so far as it relates to tarwad property. In tarwad property, an individual member's right, in its juristic conception is analogous to that of a tenant in common *i. e.* to say there are more incidents of impartibility about it than about father's property. The law has defined definitely particular interest or share which a son or daughter or a wife has in the property derived from the father or husband. And that is sought to be preserved, whereas the property from the mother is not dealt with at all. There seems to be a contradiction.

So much regarding the general principles of the Bill. I shall now deal with it clause by clause. I may at once say in answer to the observation made by the honourable Mr. Madhavan Nair regarding the Pandalam Conference, that the conference passed a resolution recommending a material change and appointed a committee to go into the question. It is now a dead letter. That the committee did not function is by itself evidence, to the conclusion that the resolution was inspired from without the community and the feeling of the community was against it. I may also state that the convener of that committee is deadly against this Bill and he has instructed Mr. Chellappan Pillai and myself to let it be known in this Assembly.

Clause 24 A of the Bill seeks to avoid the law of perpetuity.

> 'Notwithstanding any rule of law to the contrary any Nayar male or female shall be entitled to make any settlement, gift or bequest in respect of his or her self acquired or separate property in favour of all or any of his or her lineal descendents who are not in existence at the date of such disposition, provided that such disposition does not extend beyond the life time of his or her grand children to whom the interest created is to belong.'

If the rule of perpetuity is attempted to be avoided, why limit it to the third generation? The rule against perpetuity is a provision in the law regarding transfer of property and an attempt to evade that

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general law of transfer is against the civilised conception of property. A community to be allowed to nullify the provisions of a general principle of law and enjoy for itself the benefits of such evasion is unjust and inequitable.

SECTION 24 B READS:—

"No condition restraining the power of transfer or mode of enjoyment of such transferee or transferers in any such deed of settlement, gift or bequest shall be invalid, provided it does not contravene the provisions of Section 24 A."

I must say that the conception of the interest in property as obtaining in civilized countries with regard to law regarding real property has not been carefully understood and appreciated in drafting that section. The juristic conception of real property has been lost sight of in drafting clause 24 B. As regards Section 31 which says about decree, I am not able to make out what the honourable mover of the Bill means by that. I would request the honourable member to elucidate in his reply what he means by that particular clause. Again Section 35 A reads :

"35 A. Notwithstanding any rule of law or anything contained in the foregoing provisions, the wife or widow and the child or children of such wife or widow and the lineal descendants of deceased children who become entitled to the property mentioned in Sections 11, 21, and 22 and also the heirs mentioned in Section 17 shall not be entitled to claim a separation of their share or shares in such property or to alienate their share or shares therein, nor shall such share or shares be liable to be proceeded against in execution of any decree against all or any of them during the life-time of such wife or widow and of the minority of any such child or children or such lineal descendants of deceased children."

This, I think, is perhaps the most important clause in this Bill. My objections regarding this particular clause I have already said. I have to say a few words to the Explanation to clause 7 which deals with partition. The point of time at which the severance of interest starts or the status of division starts, is a very vital factor. By a long drawn series of decisions of our High Court which is composed of judges who cannot think in terms of Marumakkathayam law who cannot have that consciousness of Marumakkathayam law, have been doing us a sort of legislation in the Bench than interpreting the statute law as such. In this connection I may be allowed to give my observations on the latest decision on the question when division of status is effected among the members of a Nayar tarwad. Division is effected as soon as a notice is sent by the plaintiff to the other members of the family that he intends to separate. That seems to be the correct position though that has not been embodied in the Nayar Act, as such. I say that the correct position is that according to the conceptions of Hindu law or Mahomedan law and other laws, the status of division has to be conceded as long as the member who is entitled to a share in the family has expressed unequivocally his intention to separate from it. The legal conception of division I concede, in so far as it affects the other members of the Joint family. But that is a decision which has affected materially the statute law in Travancore. If Mr. T. P. Velayudhan Pillai wants to go back upon the old

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[Mr. S. Sankaranarayanan Tmpi.]

decision of our High Court, and contend that partition will be effected only by a preliminary decree, that seems to be rather very unjust. As observed by the honourable member Mr. Sankara Pillai, suppose a member of the family wants to effect partition and in the course of the prosecution of the suit for partition, he dies for no fault of his. He may have an honest desire that his children and grand children should inherit his property for which he has deposited court fees and all the rest of it. He has expressed his intention to separate from the rest of the family. Still the honourable member Mr. Velayudhan Pillai does not want that man to get his share : but he wants his children and grand children to starve. That attitude is quite unacceptable. I may go a step further and say that division of property so far as the members of a Nayar tarwad is concerned must be absolutely conceded, so long as he has expressed his unequivocal intention to separate from the rest of the family. And in the case of the defendant that has to be conceded the moment he files a written statement claiming partition. But that is not the position now. The position of a defendant in a partition suit is as much as that of the plaintiff himself and his written statement, claiming partitions, has to be regarded as a plaint. Even the latest decision has not defined correctly the position of a defendant in a partition suit. There they have gone wrong and I would even urge that the position of the defendant also must be made clear in a statute that may be enacted. Again, many honourable members here observed that Section 8 is the only Section wherein sane thinking could be found. Even there I humbly beg to differ. It reads :

> "42 A A co-sharer under any of the foregoing provisions in chapters IV and VI of this Act shall, subject to the rules that may be passed by the Government, have the right to pre-empt the share or shares or any part thereof of any other co-sharer or co-sharers.

This is a sort of communal or secular feeling which has prompted the drafter of this Bill to import that provision in the Bill. A joint family member must have an absolute power of disposition over his property. One has no right to interfere with his right in and the manner of dealing with his property. That I think is also objectionable.

With the observation that the Bill being one which materially affects the future interests of the community, I oppose the Bill.

MR. V. SREEDHARAN PILLAI (*Kalkulam cum Vilavancode*): Sir, though I cannot agree with the mover of the Bill in all the details, I agree with him for a change that has necessarily to be made in the existing Nayar Act. There are two reasons for that view. One of the reasons is a feeling amongst the Nayars that they want to change. I do not represent the Nayar Service Society, but I concede that the Nayar Service Society which is a communal organisation is competent to ventilate the views of the majority of the Nayars in the State. But there are Nayars outside the compass of the Nayar Service Society as well and I represent at least some of those persons and the feeling

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among those gentlemen is that they want a change in the existing Nayar Act, rather in the system of Marumakkathayam law which is as good as if not better than any other system of law. I can even say that it is as good as the Hindu Mitakshara Law or Dayabaga law existing in other parts of the world. But it so happens that it had to be mutilated by some of the leading members of the family in 1100. I will call it an unfortunate wrong done to the Nayars as well. The first legislative enactment that we had on the marumakkathayam law was in 1088 which mainly dealt with marriage and to some extent on the inheritance of property. But the Nayars not being satisfied with that change in the year 1088 began to agitate and as one of my friends here correctly said, the younger generation thinking that they will get their share and with that they can become big capitalists and work an enterprise, thought of dividing or disintegrating the tarwad and get his share. Thereby every individual member of the Nayar family indeed thought of becoming rich. Unfortunately they got theirshare and there were others to follow suit and knock that share of the properties. Eventually, what was left to the members of the Tarwad straightway was only a bicycle or something equivalent to the value of that. Later on he had to sell that also and open a tea shop and soon that tea shop too had to be closed. Now we know more or less what their fate is. I feel ashamed to say what the condition of the younger generation is at present, being a Nayar myself. Anyhow, I am courageous enough to say that the sense of the Nayar community is that Act II of 1100 had done greater harm than good even though good was expected from it. That may be the reason which actuated the present younger generation of Nayars to have some change, whether it is for good or bad. They wanted a change over to the old system of marumakkathayam law or to Mitakshara law. They wanted to follow a system which by its working would prove to the world that it will be a good one for the conduct of humanity as a whole. The point I want to submit in this connection is that the system introduced in 1100 was considered to be neither marumakkathayam law, nor Hindu law and consequently proved a failure and as a result of that a change is absolutely required for the Nayar community.

Another reason for an enactment at this stage, conceding the arguments of persons who opposed this amendment bill, is in regard to the judge made law which is prevailing now. As one honourable member remarked, the Nayar community should not be tossed about from here and there every now and then. I want the honourable members to remember that it should not be given to the judges to toss the community from year to year. That is what is being done now. Some of these sections have been subjected to many of the conflicting decisions, never reaching finality for all these twenty years many sections remain unsettled. Again if some party feels the pinch of it, decision is arrived at in some other manner. After a year one of the judges questions the correctness of that judgment when a full bench is appointed to hear the case. A different conclusion is arrived at when again a fuller bench sits over the affair a third time. I know the

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[Mr. V. Sridharan Pillai.]

names of those persons who have decided the cases and for fear of being taken note of I do not propose to name them. Instances there are when a fuller bench decision being questioned by a single judge whose decision was further referred to a full bench and then to a fuller bench. That did not settle the position of law. This was the case regarding one section of the Nayar Act, II of 1100. Then again, comes a full bench decision very recently setting aside all these decisions. If things go on like that, where will they end. If legislation does not end and settle the position of law, what else is going to? For this reason I agree with the views of Mr. Sankaranarayanan Tampi in thinking that persons who are not in touch with marumakkathayam law are dealing with that law, and decisions arrived at. These judges, if my honourable friend remembers, have decided the one way dictum or the principle involved therein. My friend at least admits that. My position is this. Whether it is good or bad, let us accept one decision of law throughout and have a legislation for that, so that the judges who may come afterwards need not deal with the same position and turn it aside. Let us have a settlement of that position. The word partition was made the subject matter of decision from the year 1100 to the year 1120; many times the question was placed in a single, full and fuller bench and still the lawyers do not know whom they are to follow.

The next reason is we should have a settlement of the position and define correctly what partition means which the Judges have not decided so far in unanimity. There have been many conflicting decisions.

I do not want to deal with this Bill section by section because I have had opportunity to deal with the Nayar Act in all its aspects for a very long time and I do not propose to do it now but at the same time I accept the principle of the mover of the Bill for the change in the Act and to the wish of the community at present.

MR. CHAZHIKATTU JOSEPH (*Meenachil* cum *Thodupuzha*): സർ, ഇ പ്പോൾ മണി നാലു കഴിഞ്ഞിരിക്കുന്നു. ഈ ബില്ല് ക്രോഡതന്നാടാർ ബിൽ, തച്ചൻ ബിൽ ഇങ്ങനെ പൊതുജനങ്ങൾക്കു ഉപകാരപ്രദമായ ബില്ലുകാം വാദപ്രതിവാദത്തിനു എടുക്കേണ്ടിയിരിക്കുന്നു. അതിനാൽ ഇനിയും ഇതു നീട്ടിക്കൊണ്ടുപോകുന്നതു വഹിക്കത്തക്കതല്ല. ക്രോഡതന്നാടാർ ബിൽ സ്റ്റാൻഡിംഗ്ഓർഡർ റ ൻ-ൽ ഇങ്ങനെ പറഞ്ഞിരിക്കുന്നു:—

"A motion that any meeting or business be adjourned or postponed or that the Assembly pass to the business next in order in the statement of business, may, if the President consents be moved at any time and without previous notice as a distinct question but not so as to interrupt a speech. If the motion is carried, the meeting or busines shall be adjourned or postponed accordingly or if the motion carried be that Assembly pass to the business next in order in the statement of business, the bussiness then under di

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cussion shall be considered to be disposed of. On such motions, the question put shall only be "That the meeting be now adjourned" or "That the business be postponed" or "That the Assembly do now pass to business next in order in statement of business' as the case may be."

PRESIDENT: This is a piece of legislation of a vital character involving a particular community. Various honourable members have expressed very strong views in one direction or another and therefore, before I put a limit to this debate, I should like to have the opinion of the House. Does the House want closure to be applied?

Motion for closure was put and lost.

MR. A. NESAMONY: I oppose the Bill. We view it from the point of view of alienees of properties from Malabar Tarwards. It creates a lot of litigation and I am sure that this measure is sure to throw open the flood gates of litigation again. The period for the redemption of property is 50 years. Now we are going to have the third legislation on Marumakathayam law during the period of 32 years. I am afraid within the next 18 years there will be another set of law coming in. So alienees are now wondering what will be the law by which their case would be decided when they come for final adjudication before a court of law. Speaking on behalf of the alienees, the Bill gives a twist at every turn. Much has been said about the various provisions of law which are now sought to be amended. Of course I do not intend to repeat the arguments that have been brought forward by the various members of this House but I would submit two things. Firstly, as regards the explanation to Clause 4, I am sure that the explanation does not carry us anywhere. 'Karanavan as such' that phrase 'as such' has been the subject of adjudication in a series of rulings in our High Courts and I am not sure and I wonder whether any judge of the High Court has till now expressed himself forcibly or lucidly on the interpretation of that phrase. I am not sure either whether this is going to throw any more light upon the interpretation of that particular phrase.

Secondly, the explanation to Section 7, I submit, is opposed to all systems of jurisprudence itself. It is also opposed to all rights which parties claim under contracts as well. Partition may be by a course of conduct or by a notice in writing or by filing a complaint in a civil court of law. That constitutes an unequivocal intention towards a division, or in other words, a division. That stands to reason and that puts a check upon unnecessary litigation which we now find in most of these affairs. I believe that interpretation is the correct one and if partition is to be postponed to a preliminary decree for partition, litigation would be the result. The aliences are afraid that all sales made after 1111 and mortgages made after 1111 are to be declared null and void. That is the feeling of the common people and I believe that the House would reject this Bill at this stage and never allow it to go to the Select Committee. It is not worth while.

MR. P. S. GOPALA PILLAI: I support the principle of the Bill. True it is that there has been a large disintegration of the holdings in the Nayar Tarward and this, coupled with the drawback of the community in the commercial and industrial field, has caused an economic

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decay in the community in general. In so far as this Bill checks the disintegration of the holdings of the Nayars, I welcome the principle of the Bill. The principle of pre-emption enunciated in this Bill is also beneficial to the community but I do admit that certain alterations are necessary in the explanation to Section 39—Partition—and to Clause 4 which deals with decree, as the elements of a valid decree are not provided in the explanation which is now before the House. As these alterations can be made by a Select Committee, I support the principles of the Bill that has been introduced.

MR. T. K. NARAYANA PILLAI: I regret I have to oppose the Bill which has been introduced by an experienced lawyer and an able legislator Mr. Velayudhan Pillai. It is said in the statement of objects and reasons that there is a growing desire now manifested in the community involving a new type of joint family. Now, so far as I have been able to ascertain, there is no such desire among the Nayars in my constituency and I can say with certainty that no attempt whatsoever has been made to ascertain the views of the community in and around the City of Trivandrum. I do not know what opinion will be given expression to if a conference of Nayars is held in or near Trivandrum. I have met individuals and have discussed the matter with them. I may say that a good percentage of them is opposed to the principle of this Bill and as such I am bound to oppose this Bill. But I may say I am in complete agreement with what is stated in the provisions of Section 7 of the Bill. Barring that, it is difficult for me to express my concurrence with the other provisions of this Bill.

Let us examine the provisions of this Bill one by one. In section 1, a sort of trusteeship is attempted to be created. Suppose a person is in possession of the minor's properties as guardian, as contemplated in the section, and then the liability of a guardian above is contemplated by the Guardians and Wards Act. Now in Section 2, Mr. Velayudhan Pillai wants to introduce a greater liability—the liability of a trustee. The result will be the Law of Limitation will become inoperative. When the Law of Limitation becomes inoperative, there will be scope for litigation in spite of the lapse of time. I do not know what useful purpose will be served by keeping open the scope for litigation of that type. One person is in possession of the minor's properties as guardian. In the case contemplated, the person so in possession, is a near relative. After several years the flood-gates of litigation are opened. The result is disharmony in the family. Is it not better that the ordinary Law of Limitation operates in such cases? If the ordinary Law of Limitation can operate with safety in the case of other communities why should a new law the law of trustees be introduced in the case of Nayars? I fail to understand the implications of the proposed amendments in Section 1 for the reasons set out above.

Then again read clause (c) of Section 2. "After the words "division is effected" wherever they occur, the following words shall be added," namely, "by metes and bounds". This is clause 2. Some

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property is left by a Navar. Now as it is, that is enjoyed most often in Oodukoor (ഉപ്പുകൂർ). In several cases without effecting partition by metes and bounds the property is enjoyed by the relatives who get on harmoniously. This has been so in our country from time immemorial. It is open to the parties to have division by metes and bounds or division as per which the parties provide for Oodukoor enjoyment. I see no reason why the addition contemplated in Clause 2 should be made. No doubt that is a very minor matter.

Then I come to Section 3. The position is this. We have already accepted the introduction of Mr. C. S Lekshmana Iyer's Bill re: gifts to unborn children and that is for the benefit of all communities alike. Therefore there is no necessity for Section 3. Thus no useful purpose will be served by having this Section.

Then let me come to Section 4. So far as Section 4 is concerned what Mr. Velayudhan Pillai wants is to effect a change in the Law of transfer. The law of transfer is such that there are certain limitations to the power of transfer. These limitations are accepted in Law as a result of experience gained through centuries. The Law of Transfer, as followed in Travancore is almost exactly on the principle of the English Law. The principles of the English Law are embodied in the Transfer of Property Act. In Travancore we are following it. This has been so ever since the English Jurisprudence was introduced into this country. While certain transfers are not encouraged under the Law, under Section 24 B. as Mr. Velayudhan Pillai wants it to be enacted, the restraints which the Law of Transfer now enjoins must be made inoperative. If this has to become Law there will be one Law of Transfer for the Navars and another for the other communities. Why should there be this distinction? If at all this is deemed to be a beneficial provision, why should not there be a general law for all the communities? Our attempt as far as possible should be towards a similar Law for all communities alike, if that were humanly possible. There must be some distinct reason why there should be a different law for the Nayars from that of the other communities. Here you are creating a law for the Nayars different from the law of the other communities. Such being the case, I cannot look with favour upon this provision in Section 24 (b). Of course, if this House wants a a similar law for all communities alike, I do not much mind whether the present law should continue or a different one enacted in its place. I do not understand why there should be a distinction for the Nayar community alone. What is the advantage for the Nayar community in particular or, for the society as a whole by enacting this provision. I therefore submit that I cannot accept that provision.

Then again, there is Section 4 dealing with Section 31 of Navar Act. As the law now stands a decree will bind a Nayar Tarwad if the *karanavan* along with the senior *ananthiravan* of his *tavazhi* and the senior *ananthiravan* of every *thavazhi* is a party by the decree. If a decree is so obtained then it binds that tarwad. Now, if Mr. Velayudhan Pillai's Bill is to become law, Section 31 goes. It is modified. What will be the effect? No doubt, there will be some advantage to the Nayar community. The advantage

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is this; inspite of a decree obtained by the *karanavan* and the senior *ananthiravan* of his *thavazhi*, it will be open for a junior member to question such a decree. But after all, is it going to be of any advantage? It may be that the *karanavan* and the senior *ananthiravan* may collude and allow a decree to be passed. But that is a very rare case. My experience does not go to say that such decrees are common. It is extremely rare. In a hundred decrees there may be one or two of a collusive type. When such is the present provision, what is the necessity for doing away with Section 31. It will only give further scope for litigation.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Supposing a suit is filed for the recovery of money due under a particular note executed by the *karanavan* and the senior-most *ananthiravan*; may I know whether those two persons will be competent to question the absence of consideration or interest?

MR. T. K. NARAYANA PILLAI: They may not be.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: In those circumstances will not the present law be detrimental to the interests of the Nayar Tarwad?

MR. T. K. NARAYANA PILLAI: I may say this, that after all, our community is not a commercial one. All that my honourable friend says would be advantageous in a commercial community. But to Nayar community money is not advanced on the strength of promissory notes but in hypothication bonds and mortgage deeds and it is only in very very rare cases that such a contingency as my honourable friend suggests may arise. Merely because certain instances may arise, it does not follow that in the generality of cases such things are common. My point is Mr. Velayudhan Pillai's provision will affect the credit of the community. The Nayars must be in a position to raise money. Their credit must be high in the money market. If it is open for the junior members of the Tarwad to question decrees with representatives of the tarwad as parties, who in the world is going to give advances to the head of the Nayar family? Where will our credit be? Does my honourable friend think that we can go on as in the past? Will not occasions arise when we have to raise money? Have we not got to send our boys and girls to the world outside? In the future world it may not be possible for the Nayar community to work out their fortunes in Travancore. Therefore our young men must go outside to various parts of India, Eastern Asia and make money and come back, if we want to live as a strong community. Our scope for expansion is not much in Travancore. There are other communities and if our members go out there will be greater scope for expansion. Suppose a young man wants to go to Burma. He requires money. Who will give him money if all these restrictions are placed on the power of borrowing money? It is necessary to safeguard our immovable property, but it is equally necessary to safeguard our credit. That being the case, it is better not

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to give scope for dishonesty. If section 31 goes it will give room for more dishonesty. There are occasions when collusive decrees are passed. But that is not a reason for modifying the law which is embodied in section 31 which has stood the test of time. I do not therefore see any necessity to enact a new piece of legislation the effect of which will be to do away with section 31 of the Nayar Act.

I will deal with section 35 (a) later on.

Then there is the question of pre-emption. The law of pre-emption, if at all, must apply alike to all communities. In section 8 the question of pre-emption is referred to. There is no reason why there must be a particular law of pre-emption for the Nayars alone and no law of pre-emption for the other communities. If it is advantageous to our community it must be equally advantageous to all other communities. There must be a general enactment, let us not make any invidious distinction. We must build up a new position. But that is not by making invidious distinctions. Let us be fair. We gain more by being fair rather than by making invidious distinctions.

I now come to my friend's attempt to create a new type of family. I do not know how that will be possible. Previously, we had the matriarchal family. Now, by the Nayar Act of 1100, we have practically created patriarchal families. It is now the attempt of my friend to bring about a type of mixed family in which both aspects are sought to be blended. Is that humanly possible? A, a Nayar dies. He leaves a widow B, and before him one of his sons C is dead. A also leaves a daughter D. The matriarchal instinct which is still in force in our community impels her on every occasion to leave the family of her husband and go back to her mother's family. If anybody says otherwise, it is very difficult for me to believe that he is giving expression to the sentiments of our community. Can anybody point out that in such circumstances that C's widow has not gone to the original family? Is it not to her advantage to leave A's family in such circumstances and to go back to her original family? The old Marumakkathayam instinct still prevails, and I have not come across a single instance were C's widow has remained in the family of her husband and the tendency, as somebody else has pointed out, is not to bring about a feeling of sympathy between B and C's widow. B's sympathy is with D and her children and not normally with C and her children. The latter case is extremely rare and that being the case, this section goes against the current of the sense of the community. I fear that the flood-gates of litigation will be opened by this provision. I am certain that there will be only litigation between C's widow and D and nobody will be benefited except probably persons like Mr. Velayudhan Pillai and myself. But will the community be benefited. Why should we make them fight, an old lady and her young children fighting along with their relative with no probable benefit for the community. This goes against the very sentiment of our community. It is counter to our feelings. Why place this legislation in the Statute book so that the

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litigation which is already in our midst and which has ruined us may further drag us into dissolution. I therefore venture to doubt the wisdom of this piece of legislation.

Before closing, I may add that what is contemplated in section 7 is in full accordance with the sentiments of our community. Unfortunately, the major portions of the bill are such that it is difficult to recommend the bill to the Select Committee merely because of the advantage under section 7. Let us throw out the bill as a whole and bring in section 7 in a different form before this Honourable House.

MR. K. K. CHELLAPPAN PILLAI: Sir, with very great regret I rise to oppose the Bill of my Honourable friend Mr. Velayudhan Pillai. Of course, he is a lawyer of great standing and a leader of the Nayar community. But he has acted contrary to the sense of the community and not exactly in accordance with wishes of the people as he has expressed himself in the statement of objects and reasons of the Bill. It is with great difficulty and after expending considerable time and energy that the Nayar Act was passed. It was passed in the midst of great opposition of a great many and also with great hilarity among some members of the community. The sponsors of this Act thought that it will enable the Nayar community to shoot itself up into a high position. But all these 20 years we have been plodding and it has brought us away from the Marumakkathayam system. I do not endorse the view that the Nayar bill has brought the expected benefit to the Nayar community. At the time when the bill came to the Legislature I was young and when I came to know the provisions of the bill I certainly thought that it was going to injure the community. Though young, I was one who did not endorse many of the provisions of the bill. We now see that the bill does really work havoc to the community. However, we cannot go back now. The sense of the community which was lacking in it, is coming back to it after the introduction of the present Act, and now it is late or rather unwise for any member of this House to try to impede its progress and impose a system which will in effect be even Mithakshara, or Dayabhaga or any other system. In this case it is neither Dayabhaga nor Mithakshara nor Marumakkathayam law. It is a law, peculiar to Mr. Velayudhan Pillai himself.

The way in which it was brought also deserves condemnation. Sometime ago, at Pantalam a committee was convened to go into this matter. My Honourable friend took part in the Committees. I do not know whether he was a member of the Committee. It was with great difficulty that the Committee was constituted some 4 years ago. The Committee has not done any thing so far. There are local heads appointed to function in the Committee, but nobody was consulted and no measure was formulated after consultation with all those persons. My Honourable friend has now arrogated

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to himself the role of Manu. Of course, he can do that, but certainly we as members of the community have the right to dispute it. This is another matter which has made me to rise against him.

As regards the provisions, I endorse the opinions thereon expressed by my Honourable friend Mr. T. K. Narayana Pillai and other Honourable members in this House. But here I do not accept the view of my Honourable friend Mr. Narayana Pillai regarding section 7, *viz.*, the provision relating to partition. Of course, opinions differ. I am of the view that the institution of the suit will decide the question of separation of interests, without waiting for a preliminary decree. I do not try to enter into details as regards the various provisions of the bill because they have been thrashed out completely by my Honourable friend.

With these remarks, I oppose the bill.

MR. V. K. VELAPPAN NAIR (*Vaikom cum Kottayam*): മി. ടി. പി. വേലായുധൻപിള്ള ഈ സമയിൽ അവതരിപ്പിച്ചിരിക്കുന്ന ഭേദഗതിബില്ലിനെ ഞാൻ അനുകൂലിക്കുന്നു. ഇവിടെ ബില്ലിനെ പ്രതികൂലിച്ചു് പല വാദങ്ങളും ഉന്നയിച്ചു കേട്ടു. അതിൽ പ്രധാനമായവ മി. വേലായുധൻ പിള്ളക്കു ഇങ്ങനെ ഒരു ഭേദഗതിബിൽ അവതരിപ്പിക്കുന്നതിനു് സമുദായത്തിന്റെ പിൻതുണയില്ലാത്തതുകൊണ്ടു് ഈ ഭേദഗതിയുടെ ആവശ്യകതയെ ചോദ്യം ചെയ്യുന്നതായും ഇതിനുമുൻപു് നായർസമുദായത്തിന്റെ ശക്തിയായ പ്രക്ഷോഭണങ്ങളുടെ ഫലമായി ഉണ്ടായിട്ടുള്ള നിയമത്തിന്റെ ഉദ്ദേശസാദ്ധ്യത്തിനു് അനുയോജ്യമല്ലാത്ത വിധമാണു് മി. വേലായുധൻപിള്ളയുടെ ഭേദഗതി നിലകൊള്ളുന്നതെന്നും, മൂന്നാമതു് മി. വേലായുധൻപിള്ള അവതരിപ്പിച്ചിട്ടുള്ള ഈ ഭേദഗതി നിയമം തന്നെ അട്ടേഫത്തിന്റെ ഉദ്ദേശത്തിനു് അനുസരണമായ പ്രയോജനം നൽകുന്നില്ലെന്നും ഉള്ളതാണു.

ഒരു സംഗതി സമ്മതിച്ചേ തീരു. എൺപത്തിഎട്ടിലേയോ, തൂറിലേയോ, നായർ റഗ്ലേഷൻ നടപ്പാക്കുന്നതിനുവേണ്ടി അന്നു് തിരുവിതാംകൂറിൽ നടന്നിട്ടുള്ള പ്രക്ഷോഭണങ്ങളുടെ രൂപത്തിൽ ഒരു പ്രക്ഷോഭണം ഇന്നു് ഈ ഭേദഗതിക്കുവേണ്ടി ഉണ്ടായിട്ടില്ല എന്നുള്ളതു് പരമാർത്ഥമാണു്. എന്നാൽ എൺപത്തിഎട്ടിലേയോ, തൂറിലേയോ സ്ഥിതിഗതികളാണു് ഒരു പ്രക്ഷോഭണംമൂലം നായർ സമുദായത്തിന്റെ ആവശ്യം നേടത്തക്കവണ്ണം അന്നു് സമുദായത്തിനു് ഉണ്ടായിരുന്നതെന്നും, അന്നത്തെ നില ഇന്നു് നായർ സമുദായത്തിനുണ്ടോ എന്നുള്ളതും ഗാഢമായ പുനരാലോചനയുടെ വിഷയീഭവിക്കേണ്ടതും ആണു. ഫ 0 0 ലേ

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[Mr. V. K. Velappan Nair.]

നിയമം മൂലം സമുദായം അനുഭവിച്ചിട്ടുള്ള പരിവർത്തനങ്ങളുടെ ഫല മായി സമുദായം അഭിവൃദ്ധിപ്പെട്ടില്ലെന്നുള്ളതു് തീർച്ചയാണു്. ഈ ഭേദഗതി നിയമത്തെ ശക്തിപൂർവ്വവും യുക്തിപൂർവ്വവും എതിർത്തു് വാദിച്ച എന്റെ മാന്യസ്നേഹിതന്മാർപോലും സമുദായം അഭിവൃദ്ധിപ്പെ ട്ടിട്ടുണ്ടെന്നു് വാദിച്ചുകേട്ടില്ല. തുറിലെ നിയമം സമുദായത്തെ ഉയർത്തു ന്നതിനായിരുന്നു എന്നും അന്നു് നിലവിലിരുന്ന നിയമം സമുദായത്തിലെ വ്യക്തികളുടെ പ്രത്യേകമായ അഭിവൃദ്ധിക്കു് ഉപയോഗപ്പെടുത്തുവാനും വ്യവസായങ്ങളിലോ, കച്ചവടത്തിലോ, കൃഷിയിലോ, പ്രവേശിക്കുന്ന തിനു് പ്രതിബന്ധമായിരുന്നു എന്നും ഉള്ളതുകൊണ്ടു് സ്വാതന്ത്ര്യമായി സ്വതന്ത്രവീതിച്ചുകിട്ടിയാൽ സമുദായം അഭിവൃദ്ധിപ്പെടും എന്നും അന്നത്തെ ചെറുപ്പക്കാരുടെ ഇടയിലും, സമുദായപ്രമാണികളുടെ ഇടയിലും ഉണ്ടാ യിരുന്ന അഭിപ്രായഗതിയെ അനുസരിച്ചും ആണു് അന്നു് ആ നിയമം നട പ്പാക്കിയതു്. എന്നാൽ അതുകൊണ്ടുള്ള അനുഭവം നാം കണ്ടുകഴിഞ്ഞു. ഇനിയും ഈ നിയമത്തിന്റെ ഫലം അടുത്തു് ഒരു ഇരുപത്തിരണ്ടു കൊല്ലത്തിനുള്ളിൽ എന്തായിരിക്കുമെന്നു് ഒരു പരീക്ഷണത്തിനുവേണ്ടി കാത്തിരിക്കാതെ, പരപ്രേരണ കൂടാതെയോ സമുദായത്തിന്റെ പിൻതുണ ഇല്ലാതെയോ, മി. വേലായുധൻപിള്ള ഇപ്രകാരം ഒരു ഭേദഗതി കൊണ്ടു വന്നിരുന്നാൽതന്നെയും അതിനെ ഈ സഭ അതു സമുദായത്തിന്റെ പേരിൽ അംഗീകരിക്കുന്നതിൽ എന്തു തെറ്റാണുള്ളതു് എന്നു് എനിക്കു മനസ്സിലാകുന്നില്ല. മി. വേലായുധൻപിള്ള ഈ ഭേദഗതി നിയമം ഈ നിയമസഭയിൽ അവതരിപ്പിക്കുന്നതിനു മുൻപു് ഗസറ്റിൽ പരസ്യം ചെയ്തിരുന്നു. തിരുവിതാംകൂറിലെ ചില പത്രങ്ങളിൽ ഇപ്രകാരം ഒരു ഭേദഗതി നിയമസഭയിൽ അവതരിപ്പിക്കാൻ പോകുന്നതായും പരസ്യം ചെയ്തിരുന്നു. ഇതുവളരെ പ്രാധാന്യമായ ഏതിരഭിപ്രായങ്ങൾ ഈ ഭേദ ഗതിയെ സംബന്ധിച്ചിടത്തോളം സമുദായത്തിലുണ്ടായിരുന്നു എന്നു വരികിൽ നിശ്ചയമായും പത്രക്കാരാ എങ്കിലും തിരുവിതാംകൂറിലുള്ള നായർ സമുദായം അതു പ്രതിധ്വനിപ്പിക്കുമായിരുന്നു എന്നുള്ളതിനു യാതൊരു പക്ഷാന്തരവും ഇല്ല. അങ്ങനെ ഒന്നു കണ്ടതായി ഞാൻ ഓർക്കുന്നില്ല.

MR. K. K. CHELLAPPAN PILLAI: ഏതെല്ലാം പത്രങ്ങളിലാണ് പ്രസിദ്ധം ചെയ്തിരുന്നതു്?

MR. V. K. VELAPPAN NAIR: പല പത്രങ്ങളിലും പ്രസിദ്ധപ്പെടുത്തി യിരുന്നു. ബിൽ ഗസറ്റിലും പരസ്യം ചെയ്തിരുന്നു. മി. വേലായുധൻ

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പിള്ള ഇങ്ങനെ ഒരു ബിൽ നിയമസഭയിൽ അവതരിപ്പിക്കാൻ പോകുന്നു എന്ന് പല പത്രങ്ങളിലും പ്രസിദ്ധം ചെയ്തിരുന്നതായിട്ട് എനിക്ക് അറിയാം.

MR. S. SANKARANARAYANAN TAMPI : അനുകൂലമായ അഭിപ്രായം മലയാളരാജ്യത്തിൽ മാത്രമല്ലയോ എഴുതിയിരുന്നത്?

MR. V. K. VELAPPAN NAIR : അതേപ്പറ്റി ഞാൻ പറയുന്നില്ല. അനുകൂലമായ അഭിപ്രായം. എഴുതിയിരുന്നതിനെപ്പറ്റിയല്ല, പ്രതികൂലമായ അഭിപ്രായം പുറപ്പെടുവിക്കാത്തതിലാണ് ഞാൻ സഭയുടെ കാര്യമായ ശ്രദ്ധയെ ക്ഷണിക്കുന്നത്. ഒരു ഭേദഗതി നിയമം നിയമസഭയുടെ പരിശോധനയ്ക്ക് വിഷയീകരിക്കാൻ പോകുന്നു എന്നുള്ള വസ്തുത തിരുവിതാംകൂറിലെ നായർ സമുദായത്തിന്റെ ദൃഷ്ടിയിൽ പെട്ടിരുന്നിട്ടും അങ്ങനെ ഒരു ഭേദഗതി നായർ സമുദായത്തിന് ആവശ്യമില്ലെന്ന് പത്രപ്രവർത്തകർ എങ്കിലും വെളിവാക്കുന്നതിന് സമുദായ സ്നേഹികളിൽ ആരുംതന്നെ മുതിർന്നു കണ്ടില്ല.

മി. വേലായുധൻപിള്ളയ്ക്ക് സമുദായത്തിന്റെ പിൻതുണയുണ്ടോ ഇല്ലയോ എന്നുള്ള കാര്യം വളരെ കാര്യമായി പരിശോധിക്കേണ്ട ആവശ്യമില്ല. ഈ ബില്ലിന് ഒറ്റ ശത്രുതൻപോലും എതിരാണെന്ന് ഇതിനുമുമ്പ് തെളിയിച്ചിട്ടില്ലാത്തടത്തോളം കാലം സമുദായത്തിന്റെ പിൻതുണ ഉണ്ടെന്നാണ് അനുമാനിക്കേണ്ടതു്.

ഇന്ന് മി വേലായുധൻപിള്ള സഭ മുമ്പാകെ അവതരിപ്പിച്ചിരിക്കുന്ന ഭേദഗതികൊണ്ട് അദ്ദേഹം ഉദ്ദേശിക്കുന്ന കാര്യം തന്നെ സാധിക്കുന്നില്ല എന്നുള്ളതാണ് അടുത്ത ഒരു ആക്ഷേപം. എന്നാൽ ഈ ഭേദഗതിയെ ഗാഢമായി ചിന്തിക്കുന്നതിനും, നിരൂപണം ചെയ്യുന്നതിനും, ഉപയോഗപ്പെടുത്തുകയല്ലാതെ അതു് രൂപാന്തരപ്പെടുത്തുന്നതിനു വേണ്ടിയാണ് ഈ സഭ മുമ്പാകെ അവതരിപ്പിച്ചിരിക്കുന്നതു്. ഇതിലുള്ള കുറവുകളും കുറവുകളും പരിശോധിച്ച് സമുദായത്തിന് ക്ഷേമമെന്നു തോന്നുന്ന മാർഗ്ഗങ്ങളിൽക്കൂടി നിയമം രൂപീകരിക്കണമെന്നാണ് എന്റെ അഭിപ്രായം.

എന്റെ സ്നേഹിതന്മാരിൽ ചിലർ പുറപ്പെടുവിച്ചിട്ടുള്ള മറ്റൊരു അഭിപ്രായം അയിരത്തിന്നൂറിലെ നിയമം മൂലം നായർ സമുദായം മക്കത്തായമായി തീർന്നിരിക്കുകയാണെന്നും ഈ ഭേദഗതികൊണ്ട് സമുദായത്തെ തിരിയെ മരുമക്കത്തായത്തിലേക്ക് പിടിച്ചു കെട്ടികൊണ്ടുപോകുന്നു എന്നുമാണ്. എന്നാൽ ഇന്നും നായർ സമുദായം മക്കത്തായമായില്ല

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മരുമക്കത്തായമായി മാത്രം അവശേഷിക്കുന്നു എന്നാണ് എനിക്കു പറയാനുള്ളത്. സ്ത്രീകളാണെങ്കിൽ അവർക്കു കിട്ടുന്ന സ്വത്തു അവരുടെ മക്കൾക്കും പെൺമക്കളുടെ മക്കൾക്കും തമ്മിൽ വീണ്ടും ഭാഗിക്കപ്പെടുന്നു. പുരുഷനാണെങ്കിൽ അയാളുടെ സ്വത്തു ഭാര്യയ്ക്കും കുട്ടികൾക്കുമായി കൊടുത്തതിനുശേഷം പെൺവഴിക്കു അതു വീണ്ടും മരുമക്കത്തായകുടുംബത്തിലെ നിയമം അനുസരിച്ചുള്ള ഭാഗത്തിനു വിധേയമായി തീരുന്നു. ഇതു കൂടാതെ മറ്റൊരു സമുദായത്തിനും ഉണ്ടായിട്ടില്ല. മി. വേലായുധൻപിള്ള തന്നെ പ്രസ്താവിച്ചതു് ഏതു വിധമായ ഭേദഗതികളോടുകൂടി അയാലും ഈ ബിൽ സിലക്ട് കമ്മറ്റിക്കയച്ചു് അവശ്യമുള്ള ഭേദഗതികൾ വരുത്തി സമുദായത്തിനു ക്ഷേമമെന്നുള്ള രീതിയിൽ നിയമമാക്കുന്നതാൽ അദ്ദേഹം പരിപൂർണ്ണമായി യോജിക്കുന്നുവെന്നാണ്. സമുദായത്തിന് ഇതുവരെയുമുള്ള അനുഭവംകൊണ്ടു് ഇപ്രകാരം ഒരു ഭേദഗതിയുടെ അവശ്യകത ഉണ്ടെന്നുള്ള കാര്യം തീർച്ചയാണ്. അതിനാൽ ഈ ഭേദഗതിയിൽ സ്വീകാര്യമായിട്ടുള്ളതു് സ്വീകരിച്ചും, ഉപേക്ഷിക്കേണ്ടവയെ ഉപേക്ഷിച്ചും, അവശ്യമെന്നു തോന്നുന്നവയെ കൂടുതൽ ചേർത്തും ഇതിനെ നിയമമാക്കുന്നതിന് സിലക്ട് കമ്മറ്റിക്കു് അയയ്ക്കുണമെന്നും കമ്മറ്റി ഗാഢമായി ആലോചിച്ചു് വേണ്ടതു് ചെയ്യണമെന്നും ഉള്ള അഭിപ്രായത്തോടുകൂടി ഞാൻ ഈ ഭേദഗതിയെ അനുകൂലിക്കുന്നു.

PRESIDENT: Order, Order. I have taken the sense of the House with regard to closure and found that the sense of the House was not in favour of closure. I however realise that there is atleast one motion in regard to which Honourable members in many parts of this House wish to have further elucidation, namely, that dealing with food situation. It is clear, judging from the course of the debate, that there are many others who wish to speak on this matter. I would therefore suggest for the consideration of this Honourable House whether a detailed consideration of the motion may not be adjourned to the next meeting which would be called up soon. Meanwhile, the motion may be formally moved by someone and the Chief Secretary will explain the position. It is a matter which is entirely in the hands of the House and I am suggesting it only from the point of view of convenience.

MR. S. CHATTANATHA KARAYÁLAR (*Pathanapuram* cum *Shenkottah, Deputy President*): Sir, one of the main objects of this Bill, as stated in the objects and reasons is to check the tendancy to further fragmentation of property in the hands of the Nayars. There is no doubt that during the course of the operation of the Nayar Act, over the last 20 years, division of properties held by Nayar Tharwads have gone on

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without any check so much so, that at present such holdings have become absolutely uneconomic. This had led to a great social evil. It is needless to emphasise that any attempt aiming at the prevention of further fragmentation or securing consolidation of holdings has to be welcomed. If this object is served to some extent at least by this measure, the Bill has to be given support.

Let me turn my attention for a moment to the question whether this object is served by this Bill. So far as I can see, the only provision aimed at the prevention of fragmentation seems to be contained in the proposed section 35 (a) under clause 6. But, even that provision does not go very far. So far as I can see it only delays partition, that is, it serves to put off the evil day, as one of my Honourable friends said. It does not really prevent the evil, but only delays it. That is the limited extent to which this Bill goes.

Let me next see whether there is any provision for consolidation of holdings. The only provision which has been made in this direction is contained in clause 8 which provides for the right of pre-emption among co-shares. This clause contains potentialities for securing consolidation of holdings. This Bill therefore goes to a very limited extent towards achieving the main object with which it has been brought forward.

One point which was emphasised by Honourable members is that this Bill if enacted would take the society back to the state of affairs that existed prior to the enactment of 1100 I wonder whether this will really be the case. So far as I can see, it cannot happen.

I would like to have these points cleared by my Honourable friend the mover of the Bill. It is to get a classification on these points that I made these remarks.

MR. P. S. MUHAMED: സർ, ഈ ബില്ലിനെ മുൻനിറ്റി രണ്ടു വാക്ക് പറയണമെന്നു ഞാൻ ആഗ്രഹിക്കുന്നു. ഒരു സമുദായത്തിന്റെ അഭിവൃദ്ധിയേയും അതിന്റെ സംരക്ഷണത്തേയും ലാക്കാക്കി സമുദായത്തിൽനിന്നുതന്നെ കൊണ്ടുവരപ്പെട്ടതു ബില്ലുകളിൽ, മറ്റുള്ളവർ ആ സമുദായാംഗങ്ങളുടെ നിലയെ അഭ്രയിച്ചും അഭ്രഹം അനുസരിച്ചും പ്രവർത്തിക്കേണ്ടതു അവശ്യമാണെന്നു എനിക്കു തോന്നുന്നു. ഈ ബില്ലു് മി. ററി. പി. വേലായുധൻപിള്ളയാണു് അവതരിപ്പിച്ചതു്. അദ്ദേഹം നായർസർവീസ് സൊസൈറ്റിയിലെ ഒരു പ്രവർത്തകനാണു. അദ്ദേഹത്തിന്റെ അടുത്തുതന്നെ നായർസർവീസു് സൊസൈറ്റി പ്രസിഡൻറും ഇരിക്കുന്നു. അതുകൊണ്ടു് ഈ ബില്ലു് പെട്ടിഷ്യലായി നായർ സർവീസു സൊസൈറ്റിയുടെ വകയാണെന്നു പറഞ്ഞിട്ടില്ലെങ്കിലും അതിന്റെ സമ്മതത്തോടുകൂടിത്തന്നെയാണു് കൊണ്ടുവരപ്പെട്ടിട്ടുള്ളതെന്നു ഉദ്ദേശിക്കാം.

MR. K. A. MATHEW: പ്രസിഡൻറു അടുത്തിരിക്കുന്നതു കൊണ്ടാണോ അപ്രകാരം ഉദ്ദേശിച്ചതു്?

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MR. P. S. MUHAMED : നായർസവീസു സൊസൈറ്റിയിലെ ചില പ്രവർത്തകന്മാരും പിൻതാങ്ങി സംസാരിച്ചതുകൊണ്ടു, മനസിലാക്കാം, അതു നായർസവീസു സൊസൈറ്റിയുടെ അനുമതിയോടും അനുകൂലത്തോടും കൂടിത്തന്നേയാണ് കൊണ്ടുവന്നിട്ടുള്ളതെന്നു. നായർസവീസു സൊസൈറ്റി നായന്മാരെ എല്ലാവരേയും പ്രതിനിധീകരിച്ചു പ്രവർത്തിക്കുന്ന ഒരു സംഘടനയാണെന്നുള്ളതാണ് മറ്റൊരുകാര്യം. ഇന്നു സംഘടിതമായ ഒരു സംഘടന നായന്മാക്കുണ്ടെങ്കിൽ അതു സവീസു സൊസൈറ്റി മാത്രമാണ്. അതിന്റെ വ്യാപ്തി എത്രമാത്രമുണ്ടെന്നല്ല ഇവിടെ നോക്കുന്നതു്. എന്നാൽ ഇന്നു നായന്മാരുടെയിടയിൽ നിലവിലിരിക്കുന്ന ഒരു സംഘടന നായർസവീസു സൊസൈറ്റി മാത്രമാണ്. അതുകൊണ്ടു മറ്റു സമുദായങ്ങളിൽപ്പെട്ട മെമ്പറന്മാർ സാമുദായികദൃഷ്ട്യാ നോക്കുന്നപക്ഷം, സംഘടിച്ചുനിൽക്കുന്ന ഒരു സംഘടനയിലെ വ്യക്തികൾ അവരുടെ പ്രവർത്തകന്മാരുടെ അനുമതിയോടുകൂടി കൊണ്ടുവരുന്ന ബില്ലുകൾ സമുദായത്തിന്റെ പൊതുവായ ആഗ്രഹം അനുസരിച്ചു കൊണ്ടുവരപ്പെട്ടിട്ടുള്ളതാണെന്നു വിചാരിക്കുവാനെ നിവർത്തിയുള്ളു. അതു വച്ചുകൊണ്ടാണു് ഈ ബിൽ സെലക്ട് കമ്മറ്റിയിൽ അയക്കുകയാണെങ്കിൽ അവിടെ അതിന്റെ മറ്റു ദുഷ്യങ്ങൾ പരിഹരിച്ചു ശരിപ്പെടുത്താമെന്നു ഞാൻ വിചാരിച്ചതു്. വാസ്തവത്തിൽ ചില സമുദായങ്ങൾക്കു് പാരമ്പര്യമായിത്തന്നെ ചില വാസനകളുണ്ടു്. മുസ്ലീംസമുദായത്തെ സംബന്ധിച്ചു പറയുകയാണെങ്കിൽ ഇൻഹെരിറ്റൻസു വ്യക്തി വിഭജന സ്വഭാവമാണു് അവർ ആഗ്രഹിക്കുന്നതു. അങ്ങനെയുള്ള പരിതഃസ്ഥിതിയുമായിട്ടാണു് അവർ പരിചയപ്പെട്ടിട്ടുള്ളതു്. അതു് ഒരാളേ ക്ഷേത്രനായിട്ടും, ദരിദ്രനായിട്ടും കൊണ്ടുവിടുന്നു എന്നുവരാം. കുടുംബപാരമ്പര്യത്തെ നിലനിർത്തുന്ന സമ്പ്രദായത്തെ ഒരുകൂട്ടർ ആഗ്രഹിക്കുന്നു. ആ ആഗ്രഹമനുസരിച്ചായിരിക്കണം മി. റ്റി. പി. വേലായുധൻപിള്ള ഈ ബിൽ ഇവിടെ അവതരിപ്പിച്ചതു്. ആ ആഗ്രഹം സമുദായത്തിന്റെ പൊതുവായ ആഗ്രഹമാണോ എന്നു സെലക്ട് കമ്മറ്റിക്കു് അന്വേഷിച്ചു ഗ്രഹിക്കാൻ സാധിക്കും. ഈ ബിൽ സെലക്ട് കമ്മറ്റിക്കു് അയക്കുന്നതിൽ യാതൊരു ദുഷ്യവും ഉണ്ടാകയില്ലെന്നാണ് എന്റെ വിശ്വാസം.

RAJYASEVANIRATA K. G. PARAMESWARAN PILLAI : സർ, മി. റ്റി. പി. വേലായുധൻപിള്ള അവതരിപ്പിച്ചതായ ബില്ലിനെ ഞാൻ ശക്തിയായി അനുകൂലിച്ചുകൊള്ളുന്നു. അതിനുള്ള കാരണം

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ഫ ഫ 0 0 –ാമാണ്ടിനുമുമ്പു തിരുവിതാംകൂറിന്റെ നാനഭാഗങ്ങളിലുമുള്ള നായർ സമുദായങ്ങൾ മീറ്റിംഗ്കൂടുകയും സമുദായത്തിനു ഭാഗംവേണമെന്നു അഭിപ്രായപ്പെട്ടു. ഒരു കൂട്ടർ ആളോഹരിഭാഗം വേണമെന്നും മറെറാരുകൂട്ടർ തായവഴിഭാഗം വേണമെന്നും അഭിപ്രായമുണ്ടായിരുന്നു. ഞാൻ തായവഴി ഭാഗക്കാരനായിരുന്നു. കൊല്ലത്തു ഇതു സംബന്ധിച്ചു ധാരാളം മീറ്റിംഗ്കൾ കൂടി. ചെറുപ്പക്കാർ അന്നു ആളോഹരിഭാഗത്തിനു അനുകൂലികളായിരുന്നു. ആളോഹരി കിട്ടിയാൽ മാത്രമേ കച്ചവടം, കൈത്തൊഴിൽ, ഇവകൾക്കു ചെയ്യുന്നതിനു പണം കിട്ടുകയുള്ളു എന്നായിരുന്നു അവരുടെ വാദം. ഫ ഫ 0 0 –ൽ ഭാഗം ആരംഭിച്ചു. ഫ ഫ 0 ന–ാമാണ്ടു ഞാൻ നിയമനിർമ്മാണസഭാമെമ്പർസ്ഥാനത്തു നിൽക്കുന്നകാലത്തു ഓരോ സ്ഥലങ്ങളിൽ ചെല്ലുമ്പോൾ കാരാ വീട്ടിലേയും കാരണവന്മാർ അമ്പതോ നൂറോ പേർക്ക് ആഹാരം തരുന്നതിനു തയ്യാറായിരുന്നു. ഫ ഫ 0 സ–ൽ ആ കാരണവന്മാരെ ആ സ്ഥലങ്ങളിൽ കാണാനില്ലാതായി. ഫ ഫ 0 ൻ-ലെ ഇല്ലക്ഷൻകാലത്തു തറവാട്ടുകാരംപോലും ഇല്ലാതായി. ഇപ്പോൾ നായന്മാരുടെ സ്ഥിതി എന്താണ്. നായന്മാർക്കു തൊഴിലില്ല. അവരുടെ വസ്തുക്കൾ പോയി. ഇപ്പോൾ മിക്കതായമായി. ഞാൻ അതിനെ കുറ്റം പറയുന്നില്ല. നായന്മാരുടെ വസ്തുക്കൾ ഇതു എല്ലപ്പത്തിൽ പോകാനിടയായതു അർഹവീതം ഭാഗമാണെന്നുള്ളതിനു യാതൊരു സംശയവുമില്ല. വളരെ ആലോചന നടത്തിയതിന്റെ ഫലമായി പന്തളത്തു വച്ചു ഒരു സബ്കമ്മറിയെ നിയമിച്ചു. മി. ജി. കൃഷ്ണപിള്ളയെ പ്രസിഡൻറായിട്ടും നേതാക്കന്മാരിൽ കുറെ ആളുകളെ മെമ്പറന്മാരായിട്ടും മറും നിയമിച്ചു. അവർ യാതൊരു നടപടികളും ചെയ്തില്ല.

Mr. K. K. CHELLAPPAN PILLAI : അതിലെ കൺവീനർ ആരായിരുന്നു?

RAJYASEVANIRATA K. G. PARAMESWARAN PILLAI : കൊട്ടാരക്കര മി. ഈശ്വരപിള്ളയായിരുന്നു കൺവീനർ. ഇപ്പോൾ ഒരുദ്യം എന്റെ അദ്ധ്യക്ഷതയിൽ ചങ്ങനാശേരിയിൽവച്ചു നടന്നയോഗത്തിൽ, പന്തളത്തുവച്ചു അംഗീകരിച്ച കമ്മറി റിപ്പോർട്ട് എന്താണെന്നറിയണമെന്നും, ഭാഗത്തെസംബന്ധിച്ചു അവതരിപ്പിക്കാൻ ഉദ്ദേശിക്കുന്ന ബിൽ എന്താണെന്നും പല ചോദ്യങ്ങളും വന്നുകൊണ്ടിരുന്നു. അതു സംബന്ധിച്ചു പ്രമേയങ്ങളും പാസാക്കി അയക്കുകയും ചെയ്തുകൊണ്ടിരുന്നു. അതിനെപ്പറ്റി ഇപ്പോൾ ചിങ്ങമാസത്തിൽ ചങ്ങനാശേരിയിൽവച്ചു എന്റെ അദ്ധ്യക്ഷതയിൽ കൂടിയ യോഗത്തിൽ ഒരു പ്രത്യേക കമ്മറി നിയമിക്കണമെന്നും, ബിൽ തയ്യാറാക്കി കൗൺസിലിൽ അയക്കണമെന്നും, തീരു

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[Rajyasevanirata K. G. Parameswaran Pillai.]

മാനിച്ചു. ആ അവസരത്തിൽ മി. റ്റി. പി. വേലായുധൻപിള്ള തയ്യാറാക്കിയതായ ഈ ബിൽ ഫാജരാക്കുന്നതിനു അനുവാദം വേണമെന്നു ആവശ്യപ്പെടുകയും, അങ്ങനെ അനുവദിക്കുകയും ചെയ്തു. തിരുവിതാംകൂറിലെ നായന്മാരുടെ എല്ലാവരുടേയും അനുവാദം കിട്ടിയില്ലെന്നു ചിലർ പറയുന്നു. എല്ലാവരുടേയും അനുവാദം വാങ്ങിക്കാനുള്ള ശേഷി ഇപ്പോഴത്തെ നായന്മാക്കില്ലെന്നുവേണം പറയാൻ.

ഇപ്രകാരം ഒരു ബിൽ അസംബ്ലിയിൽ ഫാജരാക്കാൻ പോകുന്നു എന്ന വിവരം പത്രങ്ങളിൽ പരസ്യം ചെയ്തിരുന്നു. ഗസറ്റിൽ പബ്ലിഷും ചെയ്തിരുന്നു. എന്നാൽ അതിനെ സംബന്ധിച്ചു യാതൊരു അഭിപ്രായവും പ്രകടിപ്പിച്ചില്ല. ഇന്നു കൗൺസിലിൽ ഫാജരാക്കിയപ്പോഴാണു ബഹുമാനപ്പെട്ട മെമ്പാന്മാർ ഇതിനെപ്പറ്റി പല വിമർശനങ്ങളും ചെയ്തുണ്ടു. ബില്ലിൽ പല കുറവുകളും ഉണ്ടായിരിക്കാം. സെലക്ട് കമ്മറ്റിയിൽ പോയി എന്തെല്ലാം ഭേദഗതികൾ ചെയ്യണമോ അതെല്ലാം ചെയ്യുന്നതിനു മി. റ്റി. പി. വേലായുധൻപിള്ള തയ്യാറാണു. ഈ ബിൽ സെലക്ട് കമ്മറ്റിക്കു് അയക്കണമെന്നാണു് എന്റെ അഭിപ്രായം.

MR. S. SANKARANARAYANAN TAMPI: ഫ്ലോർ—നശേഷം ചെയ്തിട്ടുള്ള കരണങ്ങളും, അതിനുമുമ്പു ചെയ്തിട്ടുള്ള കരണങ്ങളും നോക്കിയാൽ എത്രാണു് സംഖ്യയിൽ കൂടുതലെന്നു സഭയെ ബ്രസ്താവിക്കുമോ?

RAJYASEVANIRATA K. G. PARAMESWARAN PILLAI: ഭാഗം ചെയ്തതിനു ശേഷമാണു് കൂടുതൽ കരണങ്ങളും ഉണ്ടായിട്ടുള്ളതു്.

MR. S. SANKARANARAYANAN TAMPI: ശരിയായ അന്വേഷണം നടത്തിയതിനു ശേഷമാണോ ഈ അഭിപ്രായം പറയുന്നതു്?

RAJYASEVANIRATA K. G. PARAMESWARAN PILLAI: സർവ്വെ ഒന്നും നടത്തിയിട്ടില്ല. അനുഭവംകൊണ്ടു പറഞ്ഞതാണു്. ഇപ്പോഴത്തെ നായന്മാക്കു കിടക്കാൻപോലും സ്ഥലമില്ലാതായി.

MR. K. R. NARAYANAN: (*Nominated*): സർ, മി. റ്റി. പി. വേലായുധൻപിള്ള ഫാജരാക്കിയ ഭേദഗതിബില്ലിനേയും അതിനെ അനുകൂലിച്ചും പ്രതികൂലിച്ചും നടന്ന പ്രസംഗങ്ങളേയും അതർഹിക്കുന്ന പ്രാധാന്യത്തോടുകൂടി ആലോചിച്ചുനോക്കി. നിലവിൽ നിൽക്കുന്ന നായർബിൽ നായർസമുദായത്തിനു ഗുണമാണോ ദോഷമാണോ എന്നുള്ള പ്രശ്നമാണു് പ്രധാനമായിരിക്കുന്നതു്. നിലവിൽ നിൽക്കുന്ന നായർബിൽ ഗുണമാണെന്നു പറയുന്നതിനു ആരും ഇപ്പോൾ ഇവിടെ ഇല്ല. എന്റെ ബഹുമാന്യ

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സ്നേഹിതൻ മി: തമ്പി ഫ്രം ഫ്രം ഠ _ന് ശേഷം നായന്മാർ എത്രമാത്രം ആധാരങ്ങൾ നടത്തിയിട്ടുണ്ടെന്നു ബഹുമാനപ്പെട്ട മി. കെ. ജി. പരമേശ്വരൻപിള്ളയോട് ചോദിക്കുന്നു. സെൻസസ്സ് റിപ്പോർട്ടിന്റെ അവസാനഭാഗത്തു സെൻസസ്സ് കമ്മീഷണരുടെ അപ്പൻറിക്സ് നോക്കിയാൽ ഈ സംഗതി വ്യക്തമായി കാണാൻ കഴിയും. നായർസമുദായത്തെക്കാൾ താഴ്ചപ്പത്തുള്ള പല സമുദായങ്ങളും തിരുവിതാംകൂറിലുണ്ട്. ഈ വീക്ഷണഗതിയിൽകൂടി നോക്കിയാൽ ദിവസംതോറും നശിച്ചുകൊണ്ടിരിക്കുന്ന ഒരു സമുദായമാണ് നായർ സമുദായം. അതിലേയ്ക്ക് രേഖകളും വ്യക്തമായിട്ടുണ്ട്. ഇത്രമാത്രം നായർസമുദായത്തിന്റെ സാമ്പത്തികനിലയെ കരണ്ടുകൊണ്ടിരിക്കുന്ന ബില്ലിൽ മാറ്റം വരുത്തുന്നതു അപരിത്യാജ്യമായ ഒരു ആവശ്യമാണ്. ഈ ബില്ലിനെ സംബന്ധിച്ചു എന്റെ ബഹുമാന്യ സ്നേഹിതന്മാർ മി. ചെല്ലപ്പൻപിള്ള, മി. ശങ്കരപ്പിള്ള മുതലായ ആളുകൾ പറഞ്ഞതായ എതുവശങ്ങൾ അതർഹിക്കുന്ന ഗൗരവത്തോടുകൂടി ആലോചിച്ചുനോക്കി. ആവക കാര്യങ്ങളെല്ലാം സെലക്ട് കമ്മറിക്കു പര്യാലോചിക്കാവുന്നതാണ്.

MR. K. K. CHELLAPPAN PILLAI : ബില്ലിന്റെ പ്രധാന തത്വത്തിനു വിപരീതമായ മാറ്റങ്ങൾ സെലക്ട് കമ്മറിക്ക് വരുത്തുവാൻ സാധിക്കുമോ?

MR. K. R. NARAYANAN : എനിക്കു തോന്നുന്നതു് സാധിക്കുമെന്നാണു്. പരിപൂർണ്ണമായി സാധിക്കാൻ കഴിഞ്ഞില്ലെന്നുവരാം. അതിനെത്തുടർന്നു പറയാനുള്ളതു്, നൂറു ഭേദ്യങ്ങൾ ഉള്ളതിൽ എഴുപത്തിയഞ്ചു ഭേദ്യങ്ങൾ പരിഹരിച്ചതിനുശേഷം ബിൽ പാസാക്കുകയും ബാക്കിയുള്ള ഇരുപത്തിയഞ്ചു ദോഷങ്ങൾ പരിഹരിക്കപ്പെടുന്നതിനുവേണ്ടി മി. ചെല്ലപ്പൻപിള്ള വേറൊരു ബിൽ അവതരിപ്പിക്കയും ചെയ്താൽ മതി എന്നാണു്. എന്റെ പരിപൂർണ്ണമായ അഭിപ്രായം ഈ ബിൽ സെലക്ട് കമ്മറിയിലേക്കു് അയക്കണമെന്നാണു്. മി. റ്റി. പി. വേലായുധൻപിള്ളക്കു് സമുദായത്തിന്റെ പിൻതുണയുണ്ടോ, പിൻതാങ്ങലുണ്ടോ എന്നെല്ലാം ചോദിക്കുന്നതായി ഞാൻ കേട്ടു. ആ ചോദ്യങ്ങൾ തികച്ചും ബാലിശമാണു്. നായർസമുദായത്തെ പ്രതിനിധീകരിക്കുന്ന ഒരു സംഘടന സർവീസ് സൊസൈറ്റിയാണെന്നുള്ളതു് അവിതർക്കിതമായ ഒരു പരമാർത്ഥം മാത്രമാണു്. എന്തെങ്കിലും നേട്ടങ്ങൾ സമുദായത്തിനുണ്ടായിട്ടുണ്ടെങ്കിൽ അതിനുത്തരവാദി നായർസർവീസ് സൊസൈറ്റിയാണു്. നായർസമുദായത്തിനു വേറേ സ്ഥാപനങ്ങൾ ഇല്ലാതിരുന്നിടത്തോളം കാലവും മറ്റു പല കാരണങ്ങൾകൊണ്ടും സർവ്വീസ് സൊസൈറ്റിയെ

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[Mr. K. R. Narayanan.]

ചോദ്യം ചെയ്യുന്നതു ശരിയാണോ എന്നു ഞാൻ സംശയിക്കുന്നു. അതിൽ ചേർന്നിട്ടുള്ള അംഗങ്ങളുടെ നമ്പർ വച്ചുകൊണ്ടാണ് ചോദ്യം ചെയ്യുന്നതെങ്കിൽ ഒരു സാമുദായികസംഘടനയ്ക്കും നിലനിൽക്കുവാൻ സാധിക്കുകയില്ല. തിരുവിതാംകൂറിനെ മുഴുവൻ പ്രതിനിധീകരിക്കുന്നു എന്നു പറയുന്ന ചില സ്ഥാപനങ്ങളും എത്ര അംഗങ്ങളെ ചേർത്തുകൊണ്ടാണ് സംസാരിക്കുന്നതു് എന്നു ഞാൻ ചോദിക്കുന്നു. കുറെ അംഗങ്ങളെ ചേർത്തുകൊണ്ടു് സമുദായത്തെ പ്രതിനിധീകരിക്കുന്നു എന്നു പറയുകയല്ലാതെ അടിയാമൂടിയുള്ള ആളുകളെ ചേർക്കാൻ സൂര്യചന്ദ്രന്മാർ ഇരിക്കുന്ന കാലത്താളം സാധിക്കുകയില്ല.

MR. K. K. CHELLAPPAN PILLAI : സർവീസ് സൊസൈറ്റിയിലെ ഗവർണിംഗ് കമ്മറ്റിയിൽ അഡ്വക്കേറ്റുകളുണ്ടോ?

MR. K. R. NARAYANAN : ഉണ്ടു്. ബിൽ അവതരിപ്പിക്കുവാൻ പോകുന്നു എന്നു പത്രപ്രസ്ഥാവനയുണ്ടായിട്ടും ഗസറ്റിൽ പരസ്യം ചെയ്തിരുന്നിട്ടും ഒരു അഡ്വക്കേറ്റുപോലും എതിരഭിപ്രായം പറയാത്തതുകൊണ്ടു് എല്ലാവരും ഈ ബില്ലിനു അനുകൂലികളാണെന്നു ന്യായമായി വിശ്വസിക്കാം.

MR. R. MADHAVAN NAIR : സമുദായകാര്യങ്ങളെപ്പറ്റി ഒരു അഭിപ്രായം പറയുന്നതിനു അഡ്വക്കേറ്റുകൾക്കുമാത്രമേ അവകാശമുള്ളോ?

MR. K. R. NARAYANAN : എല്ലാവർക്കും അവകാശമുണ്ടു്.

MR. C. K. SANKARA PILLAI : ആരോടു് എതിരു പറയണമെന്നാണു മെമ്പറുടെ അഭിപ്രായം?

MR. K. R. NARAYANAN : എന്റെ ബഹുമാന്യ സ്നേഹിതന്റെ ചോദ്യത്തിൽ എനിക്കു് അത്ഭുതവും സങ്കടവും തോന്നുന്നു. ഒരു പ്രശ്നത്തെക്കുറിച്ചു അഭിപ്രായം പറയേണ്ടതു എവിടെയാണെന്നു അദ്ദേഹത്തിനും അറിയാം; എനിക്കുമറിയാം. കടലാസും മഷിയും കയ്യിലിരിക്കുമ്പോൾ അഭിപ്രായം പറയേണ്ടതു ആരോടാണെന്നു ഭഗ്നഭാരതം കേസിലെ പ്രതിയായ മി. ശങ്കരപ്പിള്ള ചോദിക്കുന്നതിൽ എനിക്കത്ഭുതം തോന്നുന്നു. മി. ററി. പി. വേലായുധൻപിള്ളയുടെ ബില്ലിനു മൗനമായി സ്വാഗതമരുളിയ സമുദായം എതിരാണെന്നു പറയുവാൻ എന്തെങ്കിലും കാരണമുണ്ടോ?

MR. C. K. SANKARA PILLAI : സമുദായം മൗനമായിരിക്കുന്നു എന്നു പറയുന്നതിനെ ഞാൻ ചോദ്യംചെയ്യുന്നു.

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Mr. K. R. NARAYANAN : ഞാൻ സമുദായമെന്നു വിക്കിച്ചതു നായർ സമുദായത്തെയാണ്. അവരുടെ പ്രതികൂലമായ എതിരുകൾ അധികമായി ഞാൻ കണ്ടിട്ടില്ല. എല്ലാ സന്ദർഭങ്ങളിലും ഇങ്ങനെയൊരു ബിൽ അപരിത്യാജ്യമായ ഒരു ആവശ്യമാണെന്നാണു് തോന്നീട്ടുള്ളതു്. എന്തിനധികം പറയുന്നു. മി. ശങ്കരപ്പിള്ളക്കും അറിയാം, എനിക്കും അറിയാം നായന്മാരുടെ സാമ്പത്തികനില ഇപ്പോൾ എന്താണെന്നു്. നായർസ്ത്രീകളുടെ നിലയേപ്പറ്റി മഹാകവി വള്ളത്തോൾ ഒരിക്കൽ അഭിപ്രായം രേഖപ്പെടുത്തിയിട്ടുണ്ടു്. ആ നിലയാണോ ഇപ്പോഴുള്ളതു്. ഇന്നു നായർസമുദായത്തിലെ സ്ത്രീകൾ നെല്ലുകുത്തിയും തെങ്ങുകയറിയും നടത്തുന്ന അപമാനകരമായ രീതിയിൽ പെരുമാറിവരുന്ന നില പരിതാപകരമാണു്.

Mr. K. BALAKRISHNA MENON : (*Kunnathnad* cum *Parur*) : Will the honourable member withdraw that sentence?

PRESIDENT : So far as I understand Malayalam the expression means "pitiful condition". That, I think, will be a correct translation.

Mr. K. K. CHELLAPPAN PILLAI : No, Sir, it means something more than that.

Mr. K. BALAKRISHNA MENON : Sir, we want the honourable member to withdraw the expression.

PRESIDENT : What was the word used Mr. Narayanan?

Mr. K. R. NARAYANAN : "അപമാനകരം"

PRESIDENT : I do not think he meant any obliquity.

Mr. K. K. CHELLAPPAN PILLAI : It is really a very objectionable word. We want the honourable member to withdraw the word.

PRESIDENT : So far as I can see, the word "അപമാനകരം" does not cannote any bad meaning. But the general sense of the House and the opinion of the members who speak and understand Malayalam more than me are entitled to more weight and if they are of that opinion, the honourable member will withdraw the word and use some other expression.

Mr. K. R. NARAYANAN ; ഞാൻ അപമാനകരം എന്നു് പ്രസ്താവിച്ചതു് ഒരു ദുരർത്ഥവും ഉപയോഗിച്ചല്ല. അപ്രകാരം പറയുകയാണെങ്കിൽ ഞാൻ അതു പിൻവലിച്ചുകൊള്ളുന്നു. മദ്ധ്യമകമായ രൂപത്തിനു്, പരിതാപകരമായ രൂപത്തിൽ, ദയനീയമായ രൂപത്തിൽ നായർ സമുദായത്തിലെ സ്ത്രീകൾ നടക്കുന്ന കാഴ്ചകാണുന്നുണ്ടോ? എന്നുമാത്രം ചോദിക്കുന്നു. അതറിയുവാൻ മുമതല നായർ സമുദായത്തിനില്ല? ഈ നിലയിൽ സാമ്പത്തികമായി അധഃപതിച്ചുകൊണ്ടിരിക്കുന്ന ഒരു സമുദായത്തെ രക്ഷിക്കുവാൻ നായർ സമുദായത്തിലെ ഓരോവ്യക്തിക്കും സഹോദര സമുദായത്തിലെ ഓരോ വ്യക്തിക്കും മുമതലയുള്ളതുകൊണ്ടു്, ഞാൻ

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ബില്ലിനെ പിൻതാങ്ങുകയും എതിർവശം പറഞ്ഞ എല്ലാ നിയമപണ്ഡിതന്മാരുടെയും വാദങ്ങളും സെലക്ട്കമ്മറിയിൽ തുലോചിക്കുവാനും പര്യാലോചിക്കുവാനുമുള്ള സൗകര്യം കൊടുക്കുവാൻ ഏറ്റവും പറ്റിയ അവസരമുള്ളതുകൊണ്ടും വളരെ വടംവലിനടക്കാതെ ഈ ബിൽ സെലക്ട്കമ്മറിയിൽ കൊണ്ടുവരണമെന്നു നായർ സമുദായത്തിന്റെ ശോഭനമായ ഭാവിക്കു അത്യന്താപേക്ഷിതമായതുകൊണ്ടും ഞാൻ ഈ ബില്ലിനെ ശക്തിയായി പിൻതാങ്ങിക്കൊള്ളുന്നു.

MR. C. K. SANKARA PILLAI: സെലക്ട്കമ്മറിക്കു തെളിവു് എടുക്കാനുള്ള അധികാരമുണ്ടോ?

MR. K. R. NARAYANAN: വേണ്ടിവന്നാൽ അധികാരമുണ്ടായിരിക്കുമല്ലോ?

RAJYASEVAPRAVINA G. PARAMESWARAN PILLAI: You have stated, Sir, that in regard to this Bill, the Government as such will not vote or take part in the discussion. We, on this side of the House, do not therefore propose to speak anything on behalf of Government with respect to the provisions of this Bill. But as you have given permission to official members to speak or act in their individual capacity, may I, in that capacity, make a few observations on the principle of this measure, especially, as has been observed on the floor of the House, I have had the privilege of being associated with the promulgation of the Nayar Act which is now in force. I am sorry, Sir, that the debate on this particular measure has been somewhat clouded by various references which perhaps could have been avoided as being not altogether pertinent to the subject. The main question before the House is whether after the lapse of nearly 20 years of the enactment of the Nayar Act, the community affected by this measure may not look back and review the situation and whether facts and circumstances do not exist which justify, nay, demand such review. It may be that all or some of the provisions in the Bill before the House, worded as they are may not commend themselves to some of my honourable friends. May we not, however, pause and consider whether there is any principle underlying this measure which merits further examination and scrutiny? I take it, Sir, that this Bill is but an attempt, however feeble or imperfect it may be, on the part of one of the honourable members of this House to enunciate or implement certain principles of fundamental importance which might well engage our attention with a view to remedy the defects brought about by the working of the Nair Act during the past two decades and to resolve certain doubts that have arisen in the interpretation of the Act.

The main object of the Bill, as I understand it, is to devise measures in order to arrest the wholly uneconomic fragmentation of holdings in the hands of the members of the Nayar Community and the conservation of property, to the extent possible, in the hands of the family. However wholesome may be the principle underlying indivi-

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dual partition, the operation of the provisions relating to partition under the existing Act has been frought with consequences which were unanticipated, and the question now is whether it is not possible to mitigate at least to some extent the evil effects of such a measure by introducing the principle of preemption as is proposed in the amendment Bill and by the introduction of other equally effective measures.

Now, Sir, as a lawyer myself and as one who under the Gracious Commands of His Highness has had the privilege to administer the law for some time, I have come across numerous instances where certain features of the existing Act which were considered wholesome at the time of its promulgation have brought about results contrary to our expectations. It may be that as my honourable friend Mr. K. G. Parameswaran Pillai stated, the individualistic tendencies of the younger generation influenced the passing of the enactment as it is, but it is never too late nor will it be foolish nor unwise to take advantage of an opportunity given to review the whole situation

It is satisfactory to note, Sir, that as regards the need to arrest fragmentation of holdings and the introduction of a clause as to pre-emption, there is unanimity of opinion even among those who oppose the measure as such.

May I crave the permission of this House to ask whether, without waiting indefinitely for another suitable measure being introduced at some distant future, we may not avail ourselves of this opportunity to make an attempt, wholeheartedly and with a sense of compromise and harmony, seated together round the table. to evolve a measure which will truly promote the best interests of a rather important, ancient and historic community. Whatever may be the demerits of the details of the present measure, the Select Committee may invite criticism and may elicit opinions from all interests concerned. I would, therefore, without entering into the merits of the various provisions of the Bill, ask honourable members of this House belonging to all parties and communities whether they would not respond as they did in the year 1100 and agree to give us the benefit of their advice and co-operation on a measure of such vital importance.

MR. V. K. VELAYUDHAN (*Ambalapuzha* cum *Shertallai*) സർ, ബഹുമാനപ്പെട്ട മെംബർ മി. ടി. പി. വേലായുധൻപിള്ളയുടെ ഈ ഭേഗതിബില്ലിനെ ഞാൻ അനുകൂലിച്ചുകൊള്ളുന്നു. എന്നാൽ ഈ ബില്ലിനെ എതിർത്ത ഭാഗത്തുനിന്നും പ്രധാനമായി മുണ്ടിക്കാണിച്ച ഒരു കാര്യം, ഇത് ഒരു സാമുദായികനിയമമാണെന്നും ആ സ്ഥിതിക്ക് ആ സമുദായത്തിന്റെ അഭിലാഷം അനുസരിച്ച് ഒരു സാമുദായിക നിയമമാക്കികൊണ്ടുവരേണ്ടതാണെന്നും എന്നാൽ നായർ സമുദായത്തെ സംബന്ധിച്ചിടത്തോളം ഇങ്ങനെ ഒരു നിയമത്തിന്റെ ആവശ്യം ഇതുവരെയും പ്രകടമായിട്ടില്ലെന്നും ആയിരുന്നു. ഈ വാദത്തിന്റെ സാധുതയെപ്പറ്റി എനിക്കു മനസ്സിലാകുന്നില്ല. മി. ടി. പി. വേലായുധൻ

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[Mr. K. R. Narayanan.]

പിള്ളയോട് എനിക്ക് എത്രതന്നെ സ്നേഹവും ബഹുമാനവും ഉണ്ടായിരുന്നാലും ഞാൻ ഈ ബില്ലിനെ എതിർക്കുമായിരുന്നു. എന്നാൽ വസ്തുത അതിനുവിപരീതമാണെന്നു ഞാൻ ഈ സഭയെ ബോദ്ധ്യപ്പെടുത്താം.

സർ, ഏകദേശം നാലുകൊല്ലത്തിനുമുമ്പു പന്തളത്തുവച്ചുകൂടിയ ഒരു നായർ സമ്മേളനത്തിൽ, നിലവിലിരിക്കുന്ന നായർ ആക്ടിൽ ചില ഭേദഗതികൾ വരുത്തണമെന്നു നിശ്ചയിക്കുകയും അതിനായി ഒരു കമ്മിറ്റിയെ നിയമിക്കയും ചെയ്തു. പന്തളത്തെ നായർ സമ്മേളനം, ഈ രാജ്യത്തുള്ള പത്തുലക്ഷത്തോളം വരുന്ന എല്ലാ നായന്മാരുടേയും പ്രാതിനിധ്യം വഹിച്ചിരുന്ന ഒരു സമ്മേളനം അല്ലായിരുന്നിരിക്കാം. എന്നാലും പന്തളത്തുകൂടിയ നായർസമ്മേളനത്തിൽ നാട്ടിലെ നായന്മാരെ ഒട്ടാകെ ബാധിക്കുന്ന ഒരു വിഷയമായിരുന്നു ആലോചനയ്ക്കെടുക്കപ്പെട്ടതു്. അതു് നായർ ആക്ടിലെ വ്യവസ്ഥകളിൽ ചില ഭേദഗതികൾ വരുത്തണമെന്നുള്ളതാണു്. ഈ നിശ്ചയം മിക്കവാറും എല്ലാവർക്കും അറിവുള്ളതാണു്. കൂടാതെ പത്രങ്ങളിലും പരസ്യംചെയ്തിരുന്നു. സാമുദായികകാര്യങ്ങളിൽ താല്പര്യമുള്ള എല്ലാ നായന്മാരും അതു് അറിഞ്ഞിരുന്നിരിക്കണം. എന്നാൽ പന്തളത്തുവച്ചുകൂടിയ നായർസമ്മേളനത്തിനു ശേഷം, ഈവക സംഗതികളെപ്പറ്റി സമുദായവ്യക്തികളിൽനിന്നോ, അല്ലെങ്കിൽ സംഘടിതകേന്ദ്രങ്ങളിൽനിന്നോ, യാതൊരു ശബ്ദവും ഞാൻ ഇതുവരെ കേട്ടിട്ടില്ല. മി. ടി. പി. വേലായുധൻപിള്ള കൊണ്ടുവന്ന ഈ ഭേദഗതി, വാദപ്രതിവാദത്തിനു എടുക്കുന്നതുവരെ ഇതിനെപ്പറ്റി ഒരു വ്യക്തിയും ഒരു അഭിപ്രായവും പ്രകടമാക്കിയിട്ടുമില്ല. എന്നാലും നായർ ആക്ടിൽ ചില ഭേദഗതിവരുത്തുന്നതു് പൊതുവേ ഗുണകരമാണെന്നാണു് എന്റെ അഭിപ്രായം. ഇതു് മറ്റു ബഹുമാന്യ മെമ്പറന്മാരും ഐകകണ്ഠ്യേന സമ്മതിക്കുമെന്നും ഞാൻ വിശ്വസിക്കുന്നു. അതുകൊണ്ടു് ഈ ഭേദഗതിയിൽ കൂടുതലായി വല്ല വ്യവസ്ഥകളും വരുത്തുന്നതിനുണ്ടെങ്കിൽ അതു് സിലക്ട് കമ്മിറ്റിമുഖേന വേണ്ടിയിരിക്കുന്നതിനാൽ, ബിൽ സിലക്ട് കമ്മിറ്റിക്കു് അയക്കണമെന്നു് അഭ്യർത്ഥിച്ചുകൊണ്ടു ബില്ലിന്റെ തത്വത്തോടു് അനുകൂലിക്കുന്നു.

PRESIDENT: Order, order. I am now asking the opinion of the House whether they consider that the stage has come when I can put the matter to the vote in view to what I have stated.

The House assented.

The question that the Bill be read in the Assembly was put to vote and carried. Mr. Puliyoor T. P. Velayudhan Pillai demanded a poll. A poll was taken and the following results were recorded.

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AYES—(32).

1 Mr. K. G. Kesavan Nair
2 ,, K. Sukumaran
3 ,, M. K. Neelakantan
4 ,, R. Madhavan Nair
5 ,, V. Madhavan
6 ,, K. Chandrasekhara Bhattathiri
7 ,, Kadakkavur P. Madhavan
8 ,, P. S. Gopala Pillai
9 ,, A. K. Bhaskar
10 ,, V. Gangadharan Nair
11 ,, V. Sridharan Pillai
12 ,, S. Thiraviam Nadar
13 ,, Brahmapuram P. Yesudian
14 Rajyasevaniratha K. G. Parameswaran Pillai
15 Mr. V. K. Velayudhan
16 ,, Puliyoor T. P. Velayudhan Pillai
17 Mr. V. K. Velappan Nair
18 ,, C. S. Lakshmana Aiyar
19 Rajyasevapravina G. Parameswaran Pillai
20 Mr. N. Ramakrishna Pillai
21 ,, K. R. Narayana Aiyar
22 ,, G. Narayanan Tampi
23 Dewan Bahadur L. Venkitakrishnan
24 Mr. C. P. Gopala Panicker
25 ,, S. Ramaswamy Aiyar
26 ,, A. Narayanan Tampi
27 Sry. T. Narayani Amma
28 Mr. P. K. Kumaran
29 ,, T. T. Kesavan Sastri
30 ,, P. C. Adichan
31 ,, P. S. Muhamed
32 ,, K. R. Narayanan

NOES—(22.)

1 Mr. M. R. Ramakrisha Pillai
2 ,, A. Nesamony
3 ,, T. K. Narayana Pillai
4 ,, K. A. Mathew
5 ,, S. Sankaranarayanan Tampi
6 ,, K. K. Chellappan Pillai
7 ,, I. Varughese
8 ,, K. T. Michael
9 ,, Xavier Vincent
10 ,, P. M. Varughese
11 ,, V. I. Idiculla
12 Mr. A. P. Udayabhanu
13 ,, P. S. Nataraja Pillai
14 ,, P. K. Kuriakose
15 ,, S. Muthukaruppa Pillai
16 ,, C. K. Sankara Pillai
17 ,, G. Parameswaran Pillai
18 ,, K. Balakrishna Menon
19 ,, Chazhikkattu Joseph
20 ,, E. K. Madhavan
21 ,, P. O. Thomas
22 ,, J. T. Moraes

NEUTRALS—(13.)

1 Rajyasevanirata S. Chattanatha Karayalar
2 Mr. K. M. Paul
3 ,, D. Thomas
4 ,, V. S. Krisana Pillai
5 ,, J. W. Tolson
6 ,, J. E. A. Periera
7 Mr. Varkala K. Madhavan
8 ,, A. R. Sulaiman Sait
9 ,, P. K. Kunju
10 ,, K. A. Mahomed
11 ,, M. K. Mahomed
12 Dr. S. John
13 Mr. P. A. Kasim

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[Mr. Puliyoor T. P. Velayudhan Pillai.]

The motion was carried.

The Secretary read the short title of the Bill.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I move that the Bill be referred to a Select Committee consisting of the following members:

1 The Deputy President
2 Rajyasevapravina G. Parameswaran Pillai
3 Rajyasevanirata K. G. Parameswaran Pillai
4 Mr. C S. Lakshmana Aiyar
5 ,, V. K. Velayudhan
6 ,, K. Chandrasekhara Bhattathiri
7 ,, V. Madhavan
8 ,, P. S. Mahomed
9 ,, V. Sreedharan Pillai
10 ,, T. K. Narayana Pillai
11 ,, K. G. Kesavan Nair
12 ,, K. K. Chellappan Pillai
13 ,, K. R. Narayanan
14 ,, A. Nesamony
15 ,, K. T. Michael
16 ,, V. Gangadharan Nair
17 ,, T. T. Kesavan Sastri
18 ,, P. C. Adichan
19 Legal Remembrancer
20 Mr. T. P. Velayudhan Pillai
21 ,, R. Madhavan Nair
22 ,, Sreemathi T. Narayani Amma

Mr. V. K. Velappan Nair seconded.

The question that the Bill may be referred to the Select Committee consisting of the members mentioned above, was put and carried.

MOTION BY MR. P. S. NATARAJA PILLAI UNDER STANDING ORDER No. 20.

PRESIDENT: I would suggest for the consideration of Mr. P. S. Nataraja Pillai, a procedure which I think will conduce to convenience. There will be, not very long from now, another meeting of the House where this will continue and occupy a fairly high place as part-heard motion. I am suggesting to Mr. Nataraja Pillai that if he has no objection, he may formally move the motion for the consideration of the House and reserve his speech. I shall then ask the spokesman of Government, the Chief Secretary to give all the facts and figures and it will then enable honourable members to criticise the administration on the basis of those facts and figures. I do not think Mr. Nataraja Pillai will be able to make much progress between now

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